

JOURNAL

OF THE

SENATE

OF THE

COMMONWEALTH OF KENTUCKY,

AND HELD IN THE TOWN OF FRANKFORT, ON MONDAY THE
THIRD DAY OF NOVEMBER, IN THE YEAR OF OUR LORD 1823.
AND OF THE COMMONWEALTH THE THIRTY-SECOND.

FRANKFORT:

NTED BY AMOS KENDALL AND COMPANY,

PRINTERS FOR THE STATE.

1823.

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JOURNAL OF THE SENATE.

AT A GENERAL ASSEMBLY, begun and held for the State of Kentucky, at the Capitol in the Town of Frankfort, on Monday the third day of November 1823, and in the thirty-second year of the Commonwealth.

It being the day appointed by law for the annual meeting of the General Assembly, WILLIAM T. BARRY, Lieutenant-Governor, appeared and took the Chair, and the following Members of the Senate appeared and took their seats, to wit: From the counties of Caldwell, Livingston, Hickman and Calloway, Chittenden Lyon; Christian, Trigg and Todd, Young Ewing; Butler, Muhlenberg and Grayson, William Worthington; Logan and Simpson, Charles Morehead; Warren and Allen, Anack Dawson; Barren and part of Monroe, John Gorin; Cumberland, Wayne and part of Monroe, Granville Bowman; Hardin and Bullitt, Christopher Miller; Green and Hart, Elias Barbee; Jefferson, James W. Denny; Nelson, Martin H. Wickliff; Washington, Jeroboam Beauchamp; Henry, Charles H. Allen; Shelby, Samuel W. White; Mercer, Robert B. McAfee; Garrard, John Faulkner; Knox, Clay, Whitley and Harlan, Richard Ballinger; Gallatin, Pendleton and Grant, John Forsythe; Boone and Campbell, Thomas D. Carneal; Woodford and Jessamine, William B. Blackburn; Fayette, Matthews Flournoy; Clarke, Chilton Allan; Montgomery and Estill, Samuel L. Williams; Bath, Floyd, Morgan, Pike and parts of Perry and Lawrence, Thomas D. Owings; Mason, James Ward; Fleming, William P. Roper; Nicholas and Bracken, John H. Rudd; Bourbon, John L. Hickman; and Scott, Rodes Smith.

The said Chilton Allan, Charles H. Allen, James W. Denny, Young Ewing, John Forsythe, Thomas D. Owings, William P. Roper, James Ward and Martin H. Wickliff severally produced certificates of their having been duly elected at the last general election, and took the several oaths required by the constitution of the United States, and the constitution and laws of this State.

Willis A. Lee was then elected clerk; Anthony Crockett, sergeant-at-arm, and Littleberry Batchelor door-keeper—the two former unanimously; whereupon they severally took the oaths of office.

Ordered, That Mr. Ewing inform the House of Representatives, that the Senate have formed a quorum, elected their officers, and are now ready to proceed to legislative business.

The Senate received messages from the House of Representatives, announcing that they had formed a quorum, elected their officers, and were ready to proceed to legislative business; and that they had appointed a committee to wait on the Governor, and inform him that the Legislature is organized and ready to receive any communications he may think proper to make.

Whereupon Messrs. Blackburn and T. D. Owings were appointed a committee for that purpose, on the part of the Senate.

The committee retired, and after some time returned, and Mr. Blackburn reported that the joint committee had performed the duty assigned them, and were informed by the Governor, that he would make a communication in writing, by way of message, to both branches of the Legislature, in their respective chambers, on to-morrow at eleven o'clock.

Resolved, That the Clerk be permitted to avail himself of the assistance of Jacob Swigert, in the execution of his office during the present session.

The Speaker laid before the Senate a petition from Alexander Lackey, representing that at the last general election he was duly elected Senator of the thirty-first district, but that Thomas D. Owings has been improperly returned; and praying that he may be admitted to take the seat, instead of the said Owings; which was read, and referred, with the accompanying documents, to Messrs. M'Affee, Ewing, Faulkner, Denny, Barbee, Roper and Blackburn, with power to send for persons, papers and records, for their information.

Ordered, That the rules of last session be adopted as the rules of this; and that the public printers forthwith print 150 copies thereof, for the use of the Legislature.

Ordered, That a committee of propositions and grievances be appointed; and thereupon a committee was appointed, consisting of Messrs. Ewing, Marshall, Howard, Flournoy, Davidson, Dawson, Hickman, Lyon, and such other members as may, from time to time, choose to attend; who are to meet and adjourn from day to day, and take into consideration all propositions and grievances that may be referred to them from time to time, and report their proceedings, together with their opinion thereupon, to the Senate. And the said committee shall have power to send for persons, papers and records, for their information.

Ordered, That a committee of privileges and elections be appointed; and thereupon a committee was appointed, consisting of Messrs. Faulkner, Thompson Ward, Towles, Beauchamp, Gorin, Miller and Morehead; who are to meet and adjourn from day to day, and take under consideration and examine, in the first place,

all the returns for the election of Senators to serve in the present General Assembly, and to compare the same with the returns prescribed by law; and to take into consideration all questions concerning privileges and elections, and report their proceedings, together with their opinion thereupon, to the Senate. And the said committee shall have power to send for persons, papers and records, for their information.

Ordered, That a committee for courts of justice be appointed; and thereupon a committee was appointed, consisting of Messrs. Roper, Blackburn, Owens, M'Affee, Carneal, C. Allan, C. H. Allen and Denny; who are to meet and adjourn from day to day, and take into consideration all matters relating to courts of justice, and such other matters as shall from time to time be referred to them, and report their proceedings, together with their opinion thereupon, to the Senate. And the said committee are to inspect the Journal of the last session, and draw up a statement of the matters then depending and undetermined, and the progress that was made therein; also, to examine what laws have expired since the last session, and inspect such temporary laws as are near expiring, and to report the same to the Senate, with their opinion which of them ought to be revived and continued. And the said committee shall have power to send for persons, papers and records, for their information.

Ordered, That a committee of religion be appointed; and thereupon a committee was appointed, consisting of Messrs. Smith, James Ward, Worthington, Bowman, Cowan, Barrett and Rudd; who are to meet and adjourn from day to day, and take into consideration all matters and things relating to religion and morality, and such other matters as may from time to time be referred to them, and report their proceedings, together with their opinion thereupon, to the Senate. And the said committee shall have power to send for persons, papers and records, for their information.

Ordered, That a joint committee for enrolled bills be appointed on the part of the Senate; and thereupon a committee was appointed, consisting of Messrs. Williams, Barbee and Ballinger.

And then the Senate adjourned.

TUESDAY, NOVEMBER 4, 1823.

The Senate assembled.

Mr. Thomas C. Howard, senator from the county of Madison, and Mr. Peter Barrett, senator from the county of Harrison, severally appeared and took their seats.

The Speaker laid before the Senate the petition of Charles Humphreys, praying legislative patronage to a Compendium of the Common Law, which he has published.

Mr. Ewing presented the petition of sundry citizens of Hopkinsville, praying that the powers of the trustees thereof may be extended. Also, the petition of the Master and Wardens of Hopkinsville Lodge, No. 37, praying that they may be authorised by law to raise, by lottery, a certain sum of money, for the purpose of completing a Masonic Hall.

Which were severally read and referred, the former to the committee for courts of justice, and the two latter to Messrs. Ewing, Blackburn, Wickliff and Gorin, with leave to report by bill or otherwise.

On the motion of Mr. Forsythe,

Resolved, That, as a testimony of the respect which this body entertains for the memory of the late General William Mountjoy, a member of the Senate, who has departed this life since the last session, they will wear crape on the left arm, for the space of thirty days.

The Senate received from the Governor, by Mr. Monroe, the Secretary of State, a message in writing, which was taken up and read as follows, to wit:

*Gentlemen, members of the Senate,
and of the House of Representatives,*

WE meet together, at this period, under an afflicting dispensation of Providence, which has left many of us to mourn the loss of near and dear relations, and all of us to lament, for our country, the loss of some of her most promising, useful, and valuable citizens. It becomes us, however, with pious resignation on the one hand, and filial gratitude on the other, to be thankful for the plenty and peace we enjoy, the late restoration of health, and the abundant crops with which our fields abound.

It will be necessary for the Legislature, at an early period of the session, to take into consideration the state of the Revenue. On the 10th day of October, 1821, there remained a surplus in the treasury, amounting to \$73,810 78. On the 10th of October, 1822, this surplus was reduced to \$54,846 23. On the 10th of October, 1823, there will be found a surplus only of from two to three thousand dollars. The State received and appropriated to purposes of revenue, independent of special appropriations, in the year 1822, from the profits arising from the Commonwealth's Bank, \$61,248 34. This sum has been reduced, in 1823, to \$46,403 39. The reduction will of course continue, as the paper is called in. The treasury has likewise received, annually, from the Bank of Kentucky, for dividends and tax on stock, upwards of \$40,000. This sum, under existing laws, will not be received. It is believed, too, that the revenue derived from taxable property, will be much less, in 1824, than it has been, owing to a decreased estimate in the value of property on the commissioners' books.

THE SENATE.

There are some items of expenditure, that have been increasing annually. One I think well worth the consideration of the Legislature. I allude to the expence of taking care of, and maintaining Lunatics. This expence has increased annually, for a number of years. In 1822, the whole amount was \$15,490 44. In 1823, it is \$19,013 69. Whatever may be said about the inhumanity of separating this most unfortunate and most to be pitied portion of our citizens from their relations, would it not comport more with their own interest, as well as the interest of the State, to have them supported in the public Hospital, where they will receive all the advantages of medical aid? I refer to the above items, merely to draw the attention of the Legislature to the subject. All necessary information they may need, will be readily obtained from the Auditor.

The Penitentiary has been enlarged, under the law of last session appropriating money for that purpose; and I cannot, in justice to the undertakers, refrain from saying, that the work has been done in a way that will, I believe, fulfil the expectations, and meet the approbation of the Legislature. On this subject, you will have a report from the commissioners designated by the Legislature, to let and superintend the work. The ground now enclosed by the new wall, will be amply sufficient, I trust, for many years to come. There is, however, much work to be done, in building the necessary number of cells and workshops. This labor may be performed by the convicts, during the next summer, as the work cannot be well done in the winter. During the last two months, I have thought it necessary to allow two additional sentinels to the Keeper, as the old walls were necessarily broken, to commence building the new. This is a mere temporary arrangement, and will cease when the new walls are finished.

The laws relating to, and intended for the government of the Penitentiary, are somewhat complicated, and impose unnecessary restraints on both the Keeper and Agent; restraints which can only operate to the injury of the institution, without producing either safety or benefit to the public. The Keeper should be authorised to draw money from the treasury, with the approbation of the Governor, in sufficient sums to supply the raw materials necessary. He ought never to purchase on credit. Let his account be strictly examined, annually. This, with the responsibility of the Chief Magistrate, will be a sufficient, and the best check on him. The Agent should not be tied down by unnecessary restrictions. He should be authorised to sell on credit; and to those who would purchase to sell again, he might be allowed to give six, or even twelve months' credit. This, I am well assured, would be a better arrangement; than the plan of sub-agents under the law of last session. The plan of selling the articles long on hand, at vendue in this place, has been tried, and failed.

The office of Keeper, is one of much importance to the community. It requires a man of sound and strong mind, of indefatigable and unceasing attention to the duties of his office; and although possessed of all that rare combination of qualities, or talents, he must learn the duties to be performed within the institution.

The great and most important object of the Legislature, in organising the Penitentiary, and changing the punishment for crimes, was the hope of effecting a reformation in the culprit. To do this, much has been expected from solitary confinement and hard labor combined. They are good, so far as they go; but they certainly need, greatly need, the further aid of moral instruction. A large proportion of the convicts are not only illiterate, but what is worse, they have no sense, no knowledge of the value and importance of correct morals. We have not a female confined in the Penitentiary; and, to the honor of that class of our population, it may with truth be said, (and it reflects no less honor on the State,) that female convictions, since the organization of the system, have been very rare. To what cause are we to ascribe this great difference in the human character, if not to the stronger sense of moral feelings in the females, than the males? Punishment or suffering alone, does not often lead to a reform. It is in human nature, to resist punishment, which the culprit too often deems unnecessary and unjust. Is it too much to hope, then, from the Legislature, an appropriation sufficient to enable some pious, respectable clergyman to devote his Sabbaths to the benevolent purpose of instructing this unfortunate and degraded class of men?

Our University still continues to flourish in an eminent degree. The Law Department promises much, not only in the diffusion of the necessary science of Law, but in the promotion of the science of Government in its various relations. The Medical Department has met with a success, which, it is believed, has no parallel. The late visitation upon our community, has illustrated but too fully, the correctness of the policy in promoting this institution. It would be desirable, that the Faculty would, by some means, organize themselves with the physicians throughout the State, so as to be able to collect the earliest possible information of the diseases which visit us under such incessant changes, and discovering the most successful means of encountering them, to diffuse the knowledge thus acquired, as speedily as possible, and thereby render the science of the institution as universal and efficient as practicable.

Our Southern College at Bowlinggreen, and Centre College at Danville, are both in successful operation. The Deaf and Dumb Asylum, at the latter place, has been opened under most favorable auspices, and promises much, in illuminating the minds of those

unfortunate persons, whom nature, or accident, has deprived of the ordinary means of acquiring knowledge.

On the subject of the Bank of the Commonwealth, the Legislature will, I presume, pursue steadily the course pointed out in the charter, and which has been acted on by two preceding Legislatures. To issue more paper, would be risking too much; and I am fully of opinion the debtors cannot meet heavier calls. Let this course be adhered to, and the Bank will wind up itself as soon as the people of the State will be prepared to do without it.

Permit me, whilst on this subject, to remark, that the Bank of the Commonwealth was organized, and the Endorsement and Replevin Laws passed, for different purposes, and intended to operate on separate and distinct classes of debtors. They were not essentially dependent on each other. The Bank was intended to relieve a very numerous class of debtors, whose debts were small, and where both creditor and debtor were citizens of the State, and whose debts, though small individually, amounted, in the aggregate, to the enormous sum of upwards of two millions of dollars; all of which were under judgment and execution, and the property ready to be sacrificed, in most cases, for little more than the officers' fees. It cannot be doubted by any, that such an amount of property exposed by the officers at the same time, or in a short period, would not have brought a tenth, perhaps not a twentieth of its value. This numerous, and I will venture to say, this class of honest debtors, have been relieved by loans from the Bank; their creditors have been satisfied, and thus allowed sufficient time to raise the money, by adopting the very sage advice, which we have all read in our Almanacs since the days of poor Job, and may yet read from most public documents and newspapers, of *industry and economy*; an advice always good in itself, but when given to a man whose whole property, the labor of many years, is in the hands of an officer, and about to be torn from him for one tenth of its value, in a few days, a week or month, it is then little better than insult. The class of debtors for whose benefit the Replevin Law was passed, were those whose debts were so large, that the limited loans of the Bank could not reach. To give them time, was all the Legislature could do for them. To what extent they may have been enabled to avail themselves of the time they have already had, will be better known to the collected wisdom of the Legislature, than to myself. One thing I believe is certain, that many of them cannot yet pay their debts in specie.

I have given this plain narrative of the history of our relief laws; and notwithstanding the abuse which has been heaped upon them by the designing and ignorant, I have not a doubt, but that, from the then situation of the country, they were essentially necessary, and better calculated to do moral justice between cred-

itor and debtor, than any other course in the power of the Legislature.

The Supreme Court of the United States have decided the cause involving the validity of our Occupying Claimant Laws, on which so much, both in principle and property, depended, and in which we, very properly, took so great an interest; and notwithstanding the provision in the Compact with Virginia, that in the event of a dispute concerning the meaning or execution of the instrument, the same should be referred to a tribunal therein provided for; and notwithstanding Virginia had long acquiesced in our interpretation and execution of its stipulations, and that when we made the proposition, she refused to constitute the tribunal, and make the reference; yet that Court took cognizance of the Compact between the States, as they would have done of a contract between private persons, and by misunderstanding its meaning, (which has been fully proved by our distinguished and patriotic counsel, and also further illustrated in the same view by an eminent citizen,) and by disregarding what had been esteemed the well settled distinction between right and remedy, declared the whole of our Occupying Claimant Laws contrary to the Compact, and void. And the Court of Appeals of our own State, following somewhat (for they do not perfectly agree) this disregard of the ancient distinction between right and remedy, have lately given a decision, by which they declare our Replevin, and consequently, it is believed, Property Laws, unconstitutional and void, *whenever they may be so asserted by the creditor*. The decision was given in the case of a contract made prior to the passage of the law; whether, in consequence of the provision in these laws in relation to the endorsement on executions, they will not give the same decision in cases of contracts subsequently made, is a subject of conjecture. These decisions have produced much excitement and alarm throughout the State.

The Courts rely, for the support of their decisions, on that clause of the Constitution of the United States, which declares that "*no State shall pass any law impairing the obligation of contracts*." From these words, *our* Court draws the conclusion, that the remedial laws existing at the time of the contract, are made part of the contract, and cannot be changed by any future Legislature.

It is the great and leading principle in our Federal, as well as State Constitution, that the people shall govern. To secure this important right more effectually, the members of our Legislature are elected for short periods; for the sole purpose, that the people may, by means of these elections, effect a remedy for existing evils—amend, change, or repeal all laws that are found oppressive or injurious to the community. I am not an advocate for legislative infallibility. I would not, therefore, clothe them with the

power of doing much evil, and by the same principle take from the people the right, as well as the power to apply the proper remedy.

It is settled, that Congress, as well as the State Legislatures, have the power to grant charters of incorporation. It is also well known, that there are three leading interests in the United States, the mercantile, the agricultural, and the manufacturing. Suppose, then, that one of these interests (the mercantile or manufacturing) should, by any means, obtain a majority in each house of Congress, and thus obtain a charter of incorporation, granting them privileges injurious to the other two pursuits, which would run for forty or fifty years, and for which they would pay a bonus; will any rational man say there is no power in the government to relieve the community from such a grievance? It too often happens, that men employed for a length of time in courts of law, either as Judges or inferior actors, become, in feeling and conscience, completely legalized. Man is very much the creature of habit. Such an one would probably tell you, the contract was a fair one, the bonus had been paid, and the law was in favor of the corporation. But would any honest, moral man hesitate a moment in voting the repeal of such a law?

I will mention one other view in which this principle contended for by the courts, if submitted to, may become dangerous to the government, as well as to the best interests of the people. Ours is a government founded on moral principles; its strongest support is in the affections of the people. Any judicial act that tends to alienate the minds, and consequently, the affection of large portions of the citizens; for instance, as in the present case, a whole State, by unhinging and overturning the course of legislation and adjudication acted on for years past, must, in the same degree, weaken the power, and render less secure the stability of the government. I need not be told, that the general government is authorised to use physical force to put down insurrection and enforce the execution of its laws. I know it; but I know, too, with equal certainty, that the day when the government shall be compelled to resort to the bayonet, to compel a State to submit to its laws, will not long precede an event of all others most to be deprecated.

I refer to these strong points, to show to what extent this principle may be carried. As to the immediate effects, the incalculable litigation and distress it may produce within this State, I leave it with the Legislature, who are better able to judge than myself. But the immediate effects and consequences of these decisions, on the property and pecuniary relations of the community, is not the view in which most is to be apprehended. The principles they would establish, and the effects they would produce, sink much deeper, and would produce infinitely more permanent evils.

They strike at the sovereignty of the State, and the right of the people to govern themselves. It is in this view that they have been contemplated, and justly excited the apprehensions of the most intelligent and sober-minded members of the community; and in this view the subject is committed to your most solemn consideration. In your wisdom the remedy is expected to be devised. It is with pride, as well as pleasure, I am enabled to say, (and say it without flattery,) that there is a due proportion of the talents of the State in the present Legislature.

I may fairly hope, then, that on this highly important subject, as well as all others that may come before you, you will act with that cool, dispassionate, manly deliberation, which will always be found the surest, as well as the shortest road to a correct decision. Whatever course the Legislature may adopt, in supporting and protecting the just rights of the State, and protecting the citizens from the evils to be dreaded from this new doctrine, and, to say the least of it, this doubtful construction given to the Constitution of the United States, will, I have little doubt, be approved by your constituents, and go far to quiet their apprehensions on this important subject.

Other subjects that may occur during the session, will be communicated in due time. It will give me pleasure to co-operate with you in all measures calculated to promote the public interest.

I am, Gentlemen, with due respect,

Yours,

JOHN ADAIR.

Frankfort, Nov. 4, 1823.

Ordered, That the public printers forthwith print 1,000 copies thereof, for the use of the Senate.

Mr. Lyon presented the petition of sundry citizens residing within the bounds of Graves county, praying that it may be organized; which was read and referred to the committee of propositions and grievances.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Williams—1. A bill allowing further time to the Judge of the 11th judicial district to move into the same.

On the motion of Mr. Beauchamp—2. A bill to amend the several laws concerning champerty and maintenance.

And on the motion of Mr. M'Afee—3. A bill to amend the law concerning county courts.

Messrs. Williams, C. Allan and Rudd were appointed a committee to prepare and bring in the first; Messrs. Beauchamp, Roper, Howard, Hickman and Denny, the second; and Messrs. M'Afee, White and Miller, the third.

And then the Senate adjourned.

WEDNESDAY, NOVEMBER 5, 1823.

The Senate assembled.

Mr. Barrett presented the petition of sundry citizens of the town of Cynthiana, praying that the powers of the trustees may be enlarged.

Mr. Carneal presented the petition of William Porter, praying that a law may be passed authorising a sale of some real estate belonging to his children.

Mr. Williams presented the petition of sundry citizens of Bourbon county, praying to be added to Montgomery county.

Mr. Miller presented the petition of sundry citizens of Hardin county, praying an alteration in the route for the State Road from Frankfort to Bowlinggreen.

Mr. C. H. Allen presented the petition of the heirs of Patrick Shields, deceased, praying that one of the heirs may be authorised to compromise and settle the disputes in relation to the lands of the estate.

Mr. Carneal presented the petition of Joseph Cummins and others, praying that a conveyance of land from James Moody and Samuel M'Millan to Samuel Cook, which was not recorded in the proper office, may be declared valid.

Which were severally read, and referred, the first to Messrs. Barrett, M'Afee and Carneal; the second, to Messrs. Carneal, Forsythe and C. Allan; the third, to the committee of propositions and grievances; the fourth, to Messrs. Miller, Beauchamp, Gorin and Blackburn; the fifth and sixth to the committee for courts of justice.

The Senate received a message from the House of Representatives, announcing the passage of a bill entitled "an act for the relief of the securities of the late sheriff of Ohio county."

Which bill was read the first time; and the rule being dispensed with, it was read a second and third times.

Resolved, That said bill do pass, and that Mr. Wickliff inform the House of Representatives thereof.

The Speaker laid before the Senate a letter from the Auditor of Public Accounts, covering his annual report and several official statements, which was read as follows, to wit:

STATE OF KENTUCKY, }
AUDITOR'S OFFICE, FRANKFORT, 5th Nov. 1823. }

Sir:

You will please lay before the House over which you preside, the accompanying Statements, from No. 1 to 3, and much oblige

Yours respectfully,

P. CLAY, *Aud. P. A.*

WILLIAM T. BARRY, ESQ.

Lieut. Governor, and Speaker of the Senate.

A Statement of Moneys received and paid at the Treasury, during twelve months, ending on, and including the 10th day of October 1823, to wit:

For the revenue collected by sheriffs,		
for the year	1796	20
Do.	1817	733 44
Do.	1819	114 47
Do.	1820	455 59
Do.	1821	64,314 91
Do.	1822	989 76—66,623 17
For tax on law process, deeds, seals, &c. received by clerks of courts; for tax received on seals by the secretary of state, and the amount received by the register of the land-office for fees of his office,		
		10,816 41
For Bank Stock Fund, to wit: Lands, under the acts of 1795, 1796 and 1800,		
		5,240 14
Ditto, under the acts of 1815 and 1820,		9,191 58
Ditto, under the treaty of Tellico,		163 99
Ditto, under the acts for encouraging the manufacture of salt,		90 00—14,685 71
For tax on non-residents' lands,		2,752 71
For purchasers of ditto,		266 76
For miscellaneous receipts,		176 22
For the dividends on the State's stock in the Bank of Kentucky, for the six months ending the first day of January 1823,		
		14,917 50
For tax on stock owned by individuals, in the Bank of Kentucky,		
		9,222
From the agent of the penitentiary,		22,727 74
From the treasurer of the town of Columbus, for the sale of lots in said town,		309 45
For the sale of lands west of the Tennessee river,		2,592
From commissioners of navigation, for the sale of tools, &c. belonging to the state, which were purchased for the purpose of improving the navigation of the Kentucky river,		81
For the profits of the Bank of the Commonwealth of Kentucky, exclusive of appropriations made by the legislature, and the expences of the institution,		
		46,403 07
Total amount received,		191,578 74
Balance in the treasury on the 10th October 1822,		54,846 22
Grand total,		\$ 246,424 96

THE SENATE.

15

PAID, SAME TIME.

Warrants reported to have been paid by the treasurer,

205,433 59

Stock subscribed in the Bank of the Commonwealth of Kentucky, for which warrants did not issue,

28,009 50—233,443 09

Balance remaining in the treasury on the 10th day of

October 1823,

\$ 12,981 87

NOTE.—By the provisions of an act of the legislature, entitled "an act providing for paying the commissioners under the compact with Virginia," approved December 7th, 1822, the treasurer was required to pay to Henry Clay and John Rowan, six thousand dollars in specie or United States' paper, without any reference to this office; consequently, that transaction is not taken into calculation.

No. 2.

A Statement of warrants drawn by the Auditor on the Treasurer, during twelve months, ending on, and including the 10th day of October 1823; showing the amount drawn for each source of expenditure, the amount of warrants paid and unpaid, in the same period, to wit:

Sheriffs, for revenue of 1820, amount overpaid,	85 37
Ditto, 1821, ditto,	173 28
Commissioners of navigation, (see act of assembly, approved 21st December 1821,)	32
Public roads, in pursuance of an act of assembly entitled "an act to open a road from Mountsterling to the Virginia line, by way of Prestonsburg, and for other purposes," approved 28th Dec. 1818,	1,500
Sergeant court of appeals,	547 44
Drawbacks on vacant lands,	46 15
Pensioners,	51 41
Public communications,	1,271 36
Military expenditures,	363 27
Purchasers of non-residents' lands,	306 79
Money refunded for taxes twice paid, &c.	172 85
Clerks, for taxes overpaid,	7 57
Legislature, October session 1821, (pay of witnesses,)	3 31
Appropriations, October session 1821,	154 18
Commissioners of tax,	7,938
Attorneys for the commonwealth,	5,850 12
Salaries of the executive and judiciary departments,	31,743 33
Loans to the penitentiary, including an appropriation made by the legislature, October session 1822, of \$5000,	29,538 37

Legislature, October session 1822, including only the daily attendance and mileage of the members, and compensation to witnesses,	15,944
Appropriations, October session 1822, including the compensation of the several officers of the legislature, public printing, fuel, and all other expences enumerated in the bill, except the compensation to the Speaker of each house; also, the appropriation made for the purpose of enlarging the penitentiary,	21,099 67
Sheriffs comparing polls,	351 99
Town of Columbus, for advertising sale of lots, &c.	578 35
Digest of the Statutes,	9,110
Centre College of Kentucky,	3,000
Louisville Hospital,	6,000
Lunatic Asylum,	7,500
Slaves executed,	2,300
Executive offices, for fuel, stationary, &c.	3,687 06
Support of lunatics,	19,013 69
Clerks' services, including <i>ex officio</i> services, copying commissioners' books, record books, and presses,	8,251 28
Jailers, for attending circuit courts, dieting criminals, &c.	6,728 92
Contingent expences, including the cost for distributing the Acts and Journals of October session 1822, the Digest of the Statutes, Reports of the Court of Appeals, and also the pay to the Reporters of the Decisions of the Court of Appeals,	9,936 36
Criminal prosecutions,	12,171 95
Total amount of warrants issued,	\$ 205,458 07
Stock subscribed in the Bank of the Commonwealth of Kentucky, for which warrants did not issue,	28,009 50
Total expenditures,	\$ 233,467 57
Warrants unpaid, the 10th of October 1822, that issued since the 17th of March 1810, (all others, issued prior to the above date, are presumed to have been paid,)	146 07
	\$ 233,613 64
Warrants reported to have been paid, and stock subscribed by the treasurer, (see Statement No. 1.)	233,443 09
Warrants unpaid the 10th of October 1823,	\$ 170 55

JOURNAL OF

17

No. 3.

A Statement of balances due to Government on the 10th day of October 1823, viz.

Of the revenue collected by sheriffs, there is due,		
for the year	1793	104 06
Do.	1794	138 61
Do.	1796	1,825 36
Do.	1798	101 36
Do.	1799	217 25
Do.	1800	172 26
Do.	1802	31 99
Do.	1803	1,662 21
Do.	1806	613 26
Do.	1807	279 43
Do.	1809	48 53
Do.	1811	52 44
Do.	1815	10 26
Do.	1817	1,323
Do.	1819	1,186 97
Do.	1820	1,814 38
Do.	1821	5,357 71
Debts receivable,		7,127 84
Commissioners of navigation,		1 82
Tax an bank stock, (Independent Banks,)		1,105 06
Clerks, for taxes,		3,659 58
Loans to the penitentiary,		25,782 85
Total debts due,		\$ 52,616 28

No. 4.

A Statement of Balances due from Government, on the 10th day of October 1823, and for which the amount in the Treasury on the same day, is, under the existing laws, subject to the payment of the same, to wit:

Sheriffs, for revenue of 1813, amount overpaid,	8 32
Attorneys, for 1819,	86 96
Purchasers of non-residents' lands,	207 17
Bank stock fund,	4,603 12
Attorneys for the Commonwealth,	1,469 32
Salaries,	3,718 55
Town of Columbus,	1,765 10

Amount due from Government, \$ 11,858 54
C

No. 5.

A Statement showing the probable amount of expenditures of the Government, for the year to end on the 10th day of October 1824, to wit:

For the annual salaries of the officers of the executive department, attorney-general and attorneys for the commonwealth,	35,000
<i>Ex officio</i> services of clerks, copying commissioners' books, and for record books, presses, &c.	8,500
Legislature, November session 1823, and all expences incident thereto, supposing the session to continue eight weeks,	40,000
Sergeant court of appeals,	700
Military expenditures,	500
Postage,	1,400
Sheriffs comparing polls,	1,000
Criminal prosecutions,	14,000
The execution of slaves,	2,000
For the support of lunatics,	20,000
Printing and Binding the Acts and Journals of November session 1823,	3,000
Jailers, for attending circuit courts, &c.	7,000
Commissioners for taking in lists of taxable property,	8,000
Contingent expences, including the pay to the Reporter of the Decisions of the Court of Appeals, for distributing the same, and for distributing the Acts and Journals of November session 1823, &c.	8,000
Executive offices, for fuel, stationary, &c.	3,000
Money refunded, for taxes twice paid, &c.	200
Purchasers of non-residents' lands,	200
Stock subscribed in the Bank of the Commonwealth of Kentucky,	10,000
Amount expected to be expended,	\$ 162,500

No. 6.

A Statement of the amount of moneys which, it is expected, will be paid into the Treasury in the year to end on the 10th day of October 1824, subject to the expences of Government, to wit:

The gross amount of revenue collectable by sheriffs, for the year 1822, and made payable on the first Monday in December next, is 87,283 85
 The loss on the collection of the revenue by sheriffs this year, including commis-

THE SENATE.

19

sion for collecting, insolvents, compensation for killing wolves, and credits by claims of veniremen and witnesses, received by the different sheriffs in the payment of the revenue, it is presumed, will be 20 per cent. amounting so

17,456 77—69,827 08

Of which said revenue was paid previous to the 10th of October 1823,

989 76

The delinquents on the part of the sheriffs,

this year, it is presumed, will be about 3,000 00—3,989 76

Which leaves a sum that may be expected, with some certainty, to be paid in the ensuing year, of 65,837 32

From clerks, for tax on law process, deeds, seals, &c.

from the secretary of state, for tax on seals, and

from the register of the land office, for the fees of his office,

11,000 00

Miscellaneous receipts,

100

Non-residents' lands,

2,700

From the Bank of the Commonwealth of Kentucky, exclusive of the Literary Fund and the expences of the institution,

36,000

For Bank Stock Fund,

10,000

Of the balances stated to be due Government, as in Statement No. 3, there will be collected, of the revenue due from sheriffs,

7,323

Of the balances due from clerks, there will be collected,

2,000

Of the other balances no part is expected to be collected.

Total amount expected to be received, \$134,960 32

To which, add the balance in the treasury on the 10th day of October 1823, (See note at the end of Statement No. 1.)

12,981 87

Grand total, \$147,942 19

Balance due from Government on the 10th day of October 1823, as per Statement No. 4, 11,858 54

Also, amount of Statement No. 5, 162,500 00—174,356 54

From which deduct the amount of receipts, &c. as above,

147,942 19

Leaving a deficiency in the treasury, on the 10th of October 1824, of

\$ 26,416 35

A Statement of the situation of the Penitentiary.

MANUFACTURES.

From the 1st of October 1822 to the 1st of October 1823, the Agent's receipts to the Keeper are—	
For blacksmith's work,	7,856 23
Shoes,	6,919 50
Chairs,	1,054 17
Nails,	309 87
Slaies,	798
Stone,	4,125 51
Cooper's,	1,747 03
Sundries,	2,862 64
Total amount of Agent's receipts,	25,672 95
The Keeper consumed, in manufacturing the above articles, raw materials to the amount of	13,444 26
Gross profit of manufactured articles,	\$ 12,228 69
To which add the amount of raw materials paid for by the Keeper this year, which were furnished previous to the 1st of October 1822,	2,212 15
	\$ 14,440 84
The expences of the institution are as follows:	
For contingencies, including the pay of guards, turn-key, clothing, &c.	4,485 32
For fuel,	805 61
For dieting,	4,438 24
	\$ 9,729 17
The Agent and Keeper's salaries, commission, and the pay of an Assistant Keeper,	2,829 57—12,558 74
Net profits of the institution, for the year ending on the 1st of October 1823,	\$ 1,882 10
THE KEEPER.	
He has received from the treasury, for the purpose of purchasing raw materials, paying debts, &c. from the 1st of October 1822, to the first of October 1823,	21,070
Amount due the Commonwealth the 1st of Oct. 1822,	1,303 24
	\$ 22,373 24

THE SENATE.

21

He has expended, in the same period, as enumerated above,	9,729 17	
Ditto, raw materials,	10,999 96	—20,729 13

Due from the Keeper to the Commonwealth, on the 1st of October 1823,	\$1,644 11
--	------------

LOANS.

There was due to Government, for loans, on the 1st day of October 1822,	19,006 81	
From the above date, warrants have been drawn on the treasury, for the purpose of purchasing raw materials, paying debts, &c. as stated above,	21,070	
Ditto, an appropriation last session of the legislature,	5,000	
Also, for the payment, in part, of the compensation due to the Keeper and Agent,	2,968 98	
Ditto, to the executors of John B. Woolbridge, late Agent, for commission and salary due,	93 30	—48,139 09
Paid by the Agent to the Treasurer, in the year ending the 1st of October 1823, to wit: For debts collected, cash sales made, and for cost and interest received,	22,221 24	

Due Government on the 1st day of October 1823,	\$ 25,917 85
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SALES.

Manufactured articles sold by the Agent during the year ending the 1st day of October 1823,	\$ 19,981 55
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RAW MATERIALS.

Raw materials on hand the 1st day of October 1822,	6,237 10
Ditto, purchased from the above date to the 1st of October 1823,	10,999 96

Total amount of raw materials,	\$ 17,237 06
Deduct the amount of raw materials consumed from the 1st of October 1822 to the 1st of October 1823,	13,444 26

Leaving a balance of raw materials on hand the 1st day of October 1823, of	\$ 3,792 30
--	-------------

TOOLS, &c.

The amount of tools and other articles belonging to the penitentiary, as per report of Keeper, is about the same as last year, which amounts to

\$ 1,770 89

THE AGENT.

There were in the hands of the Agent, on the first day of October 1822, debts and manufactured articles to the amount of

60,066 26

From that period to the 1st of October 1823, he has been charged with manufactured articles to the amount of

25,672 95

Ditto, cost and interest received, same time,

185 64—25,858 59

Total charged, \$ 85,924 85

In the same period he has been credited by costs paid, discounts made on cash sales, &c. to the amount of

4,061 83

By money paid into the treasury,

22,221 24—26,283 07

Balance standing on the Agent's books, due to the Government, the 1st of October 1823,

\$ 59,641 78

The general account of the Institution, on the 1st day of October 1823, is as follows:

CREDITS.

By effects in the hands of the Agent, the above date,

59,641 78

Money in the hands of the Keeper,

1,644 11

Raw materials on hand,

3,792 80

Tools and other articles belonging to the institution,

1,770 89

Total credits, \$ 66,849 58

DEBITS.

Loans due the State,

25,917 85

Due for a debt contracted by former Keeper,

9,000 00

Due former Agent, for balance of account,

358 88

Due the Keeper and present Agent, for compensation,

554,50—35,331 23

Nominal value of the institution, on the 1st day of October 1823,

\$31,018 23

THE SENATE.

23

No. 8.

A Statement showing the amount of the State price due for Green River Lands, and known by the appellation of Head-Right Claims; the number of white Males over 21 years old, and the number of Children between 4 and 14 years old, in each County, as per the Commissioners' books, to wit:

COUNTIES.	Amount due for head-right claims.	No. of white males over 21.	Children between 4 & 14.
Adair, -	\$ 3,282 93	1,363	2,343
Allen, -	3,726 37	759	1,329
Bourbon, -		2,179	3,381
Bath, -		1,047	1,785
Barren, -	1,860 20	1,546	2,382
Bullitt, -		869	1,247
Breckinridge, -		976	1,618
Boone, -		1,041	1,527
Bracken, -		983	1,296
Butler, -	386 45	425	872
Clay, -		388	651
Caldwell, -	1,929 65	972	1,606
Clarke, -		1,577	2,642
Campbell, -		1,090	1,572
Christian, -		1,260	1,981
Cumberland, -	2,800 36	1,166	1,919
Casey, -		522	901
Daveiss, -		536	883
Estill, -		582	834
Fayette, -		2,672	3,497
Floyd, -		767	1,398
Fleming, -		2,011	3,336
Franklin, -		1,355	1,849
Grayson, -		677	1,095
Greenup, -		553	
Garrard, -		1,350	2,291
Green, -		1,594	1,391
Gallatin, -		800	882
Grant, -		331	522
Hardin, -		1,913	2,610
Harrison, -		1,798	2,930
Henry, -		1,656	2,549
Henderson, -		633	867
Hopkins, -	454 80	577	1,187
Hickman, -		770	1,259
Harlan, -	237 50	289	575
Hart, -		624	1,036

COUNTIES.	Amount due for head-right claims.	No. of white males over 21.	Children between 4 & 14.
Jefferson,	-	2,538	1,779
Jessamine,	-	1,226	1,556
Knox,	-	601	1,129
Lincoln,	607 81	1,309	1,948
Logan,	374	1,262	1,475
Livingston,	2,226 87	714	1,058
Lewis,	-	704	1,161
Lawrence,	-	377	700
Madison,	-	2,064	3,277
Mason,	-	2,044	2,909
Mercer,	-	2,129	3,224
Muhlenberg,	1,843 15	730	1,294
Montgomery,	-	1,306	2,198
Monroe,	732 10	707	1,077
Nelson,	-	1,895	2,645
Nicholas,	-	1,213	2,067
Ohio,	-	652	1,094
Owen,	-	650	876
Pulaski,	7,294	1,235	2,351
Pendleton,	-	536	951
Perry,	-	429	778
Pike,	-	294	624
Rockcastle,	179 44	418	726
Scott,	-	1,685	2,495
Shelby,	-	3,076	5,592
Simpson,	-	742	1,329
Trigg,	256 04	600	971
Todd,	228 20	827	1,441
Union,	110 33	452	728
Woodford,	-	1,346	1,711
Warren,	2,289 36	1,508	2,447
Wayne,	2,308 38	1,154	2,064
Washington,	-	2,115	3,156
Whitley,	809 35	460	962
TOTAL,	\$ 33,437 34	78,649	119,826

NOTE.—The above Statement, No. 8, is taken from the commissioners' books for 1822; the books for 1823 are but partially returned, as yet, and it is presumed that the larger part of the books will not be returned until after the adjournment of the legislature.

P. CLAY, Aud. P. A.

State of Kentucky, Auditor's Office.
Frankfort, November 5th, 1823. }

The following bills were reported, to wit:

By Mr. Williams—1. A bill allowing further time to the Judge of the 11th judicial district to move into the same.

By Mr. Lyon—2. A bill to legalize the proceedings of the Hickman county court.

By Mr. Ewing—3. A bill authorising a lottery for the benefit of Hopkinsville Lodge, No. 37; and 4. a bill to increase the power of the trustees of the town of Hopkinsville.

By Mr. Beauchamp—5. A bill to amend the several acts concerning champerty and maintenance.

And by Mr. M'Affee—6. A bill concerning county courts.

Which were severally read the first time, and ordered to be read a second time.

The rule being dispensed with, the first and second were read a second and third times, (having been engrossed.)

Resolved, That said bills do pass, and that the titles be, respectively, "an act allowing certain Judges further time to remove into their respective districts," and "an act to legalize the proceedings of the Hickman county court."

Ordered, That Mr. Lyon inform the House of Representatives thereof.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Blackburn—A bill to revive and continue in force part of the act concerning the Bank of Kentucky, and the Bank of the Commonwealth of Kentucky, approved December 5, 1822.

And on the motion of Mr. Wickliffe—A bill to fix the ratio and apportion the representation among the several counties in this State, for the ensuing four years.

Messrs. Blackburn, C. Allan, Denny and Flournoy were appointed a committee to prepare and bring in the former, and Messrs. Wickliff, Roper and Ewing the latter.

Ordered, That Messrs. Amos Kendall and Thomas Curry be permitted to take seats within the Senate Chamber, for the purpose of taking sketches of the proceedings and debates of the Senate, during the present session.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined an enrolled bill entitled "an act for the relief of the securities of the late sheriff of Ohio county," and had found the same truly enrolled.

The Senate received a message from the House of Representative, announcing that their Speaker had signed said bill.

Whereupon the Speaker of the Senate signed the same, and it was delivered to the joint committee, to be laid before the Governor; and after some time, Mr. Barbee reported that they had performed that duty.

Mr. C. H. Allen read and laid on the table a joint preamble and resolution for the removal of the Judges of the Court of Appeals. And then the Senate adjourned.

THURSDAY, NOVEMBER 6, 1823.

The Senate assembled.

The Speaker laid before the Senate a letter from the Treasurer, covering his annual report; which was read as follows, to wit:

STATE OF KENTUCKY,
TREASURER'S OFFICE, November 4th, 1823. }

Sir:

You will please lay before the honorable House over which you preside, the enclosed Statement, which gives a concise view of the situation of the Treasury Department, from the 11th of October 1822, to the 10th of October 1823, inclusive.

I have the honor to be, very respectfully,

Your obedient, humble servant,

SAML. SOUTH, TR.

The Hon. WILLIAM T. BARRY,
Speaker of the Senate.

A STATEMENT

Of Moneys received and paid at the Treasury, in the year commencing on the 11th of October 1822, and ending on the 10th of October 1823, inclusive; together with the amount of Money in the Treasury on the 10th of October 1822.

RECEIPTS.

For amount received on vacant lands	9,191	58	
Do. head-right lands,	5,240	14	
Do. manufacture of salt,	90	00	
Do. Tellico lands,	163	99	—14,685 71
Do. penitentiary,			22,727 74
Do. sheriffs,			66,623 17
Do. clerks,			9,437 66
Do. non-residents' lands,			3,019 47
Do. miscellaneous receipts,			176 22
Do. internal navigation,			81
Do. register of the land sales,			2,592
Do. register of the land-office,			1,373 75
Do. treasurer of the town of Columbus,			309 45
Do. dividend bank stock of Kentucky, up to January 31, 1823,			14,917 50
Do. tax on same,			9,222

JOURNAL OF

27

Do. Commonwealth's Bank, July, 1823,	46,403 07
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Total amount received in 1823,	\$ 191,578 74
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And in the treasury on the 10th of October 1822,	54,846 22
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Total amount,	\$ 246,424 96
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The following Statement exhibits the amount of Money paid for warrants drawn on the Treasury from the 11th of October 1822, to the 10th of October 1823, inclusive.

Amount subscribed and paid into the Commonwealth's Bank as stock:

On account of vacant and head-right lands,	10,500 00
Dividend in Bank of Kentucky,	14,917 50
Register of the land sales,	2,592 00—28,009 50
Drawback on vacant lands,	18 66
Loans to the penitentiary,	24,686 50
To the commissioner of the town of Columbus,	578 10
Judiciary department,	30,002 48
Executive department,	7,279 45
Legislature, October session 1822,	19,893 88
Appropriations, same time,	35,486 90
Digest of the Statute Law of Kentucky,	9,110
Marshall's and Littell's Reports,	5,511 80
Public printing,	2,645 45
Support of lunatics,	19,478 04
Military expenses,	672 27
Criminal prosecutions,	13,444 48
Commissioners of tax,	7,505
Jailers of circuit and county courts,	6,664 67
Clerks of circuit and county courts,	3,864 96
Executive offices,	4,032 50
Sheriffs, for comparing polls,	566 83
Purchasers of non-residents' lands,	300 32
Pensioners,	51 41
Contingent expenses,	1,942 36
Money refunded,	245 59
Public communications,	1,271 35
Distributing Acts of Assembly,	2,272 15
Sergeant court of appeals,	547 44
Slaves executed,	2,300

Total amount,	\$ 233,443 09
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Aggregate amount of receipts, including money in the treasury on the 10th day of October 1822,	246,424 96
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Amount of warrants paid, same time,	233,443 09
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Cash in the treasury on the 10th of October 1823,	\$ 12,981 87
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In pursuance of the law of last session, entitled "an act providing for paying the commissioners under the compact with Virginia," I paid over to Henry Clay and John Rowan, Esqs. the sum of \$ 6,000 in specie and United States' paper, as directed by said act. To comply with that requisition, I endeavored, diligently, to supply the kind of funds required, without suffering a loss to the State, by exchange of the funds in the treasury; and it would have afforded me great pleasure, to have reported to the legislature that I had accomplished that object. I was obliged, however, to raise the sum of \$6000 mentioned in the said act, to exchange therefor, of the funds in the treasury, the sum of \$11,054 11. The various exchanges, and several rates of exchange, made to accomplish the views and commands of the legislature, on the treasurer, as expressed in the act, may be seen by reference to the evidences of such exchanges, now in my possession. These evidences I shall lay before the joint committee of both houses, to inspect the treasurer's office, and they will be cheerfully submitted to the legislature, at any time, if required.

Deduct from	12,981 87
The amount of	11,054 11

Leaves in the treasury the sum of \$ 1,927 76

The foregoing statement is respectfully submitted to the Senate.

SAML. SOUTH, TR.

Mr. Ewing presented the petition of William Durrington, a revolutionary soldier, praying a donation of a quarter section of land below the Tennessee river.

Mr. Lyon presented the petition of John Anderson, one of the assistant judges of Hickman county, praying that an allowance may be made him for travelling to and from the court-house, in the discharge of his duties.

Mr. White presented the petition of Joseph Ketchum, praying that he may be invested with the title to a tract of land lately belonging to Alexander M'Munn, who died without heirs; which land was bequeathed to the petitioner by a nuncupative will of said M'Munn.

Mr. M'Afee presented the petition of Joshua Barbee, executor of John Barbee, praying that the Mercer circuit court may be authorised to entertain jurisdiction of a petition for the sale of certain slaves belonging to the said estate.

Mr. Ewing presented the petition of Sylvanus Lockwood, praying to be divorced from his wife, Polly Lockwood. Also, the petition of Elijah Veach, a revolutionary soldier, praying a donation of a quarter section of land below the Tennessee river.

Which were severally read and referred, the first and sixth to the committee of propositions and grievances; the second, third

and fourth to the committee for courts of justice; and the fifth to the committee of religion.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Ewing—1. A bill for the relief of certain aliens.

On the motion of Mr. Lyon—2. A bill for the benefit of the heirs of David Davidson, deceased.

On the motion of Mr. Denny—3. A bill to amend the laws relative to the turnpike road from Louisville to Frankfort.

On the motion of Mr. White—4. A bill to incorporate the Republican Circulating Library Company.

On the motion of Mr. Rudd—5. A bill to amend the militia laws.

And on the motion of Mr. Carneal—6. A bill concerning witnesses.

Messrs. Ewing, Wickliff and C. H. Allen were appointed a committee to prepare and bring in the first; Messrs. Lyon, M'Afee and Williams, the second; Messrs. Denny, White, Blackburn and Flournoy, the third; Messrs. White, Howard and Bowman, the fourth; Messrs. Rudd, M'Afee and Williams, the fifth; and Messrs. Carneal, Flournoy and James Ward, the sixth.

The following bills were read a second time, to wit: 1. A bill to amend the law concerning champerty and maintenance; 2. a bill authorising a lottery for the benefit of Hopkinsville Lodge, No. 37; 3. a bill concerning county courts; and 4. a bill to increase the power of the trustees of the town of Hopkinsville.

The first was committed to a committee of the whole house on the state of the commonwealth, for Wednesday next; the second and fourth were ordered to be engrossed and read a third time, and the second was committed to Messrs. Denny, Blackburn and M'Afee.

Ordered, That the public printers forthwith print 150 copies of the first bill, for the use of the Legislature.

The following bills were reported, to wit:

By Mr. Carneal—A bill for the benefit of the children of Hannah Porter.

And by Mr. Ewing—A bill for the relief of certain aliens.

Which were severally read the first time, and ordered to be read a second time.

The rule being dispensed with, the former bill was read a second time, and ordered to be engrossed and read a third time.

And then the Senate adjourned.

FRIDAY, NOVEMBER 7, 1823.

The Senate assembled.

Benjamin Duncan, Esq. Senator from the counties of Breckinridge, Daveiss and Ohio, appeared and produced a certificate of his election; and having taken the oaths prescribed by law and the constitution, took his seat.

Mr. Gorin presented the petition of sundry citizens of the counties of Warren, Grayson, Hart and Butler, praying the formation of a new county, out of a part of each.

Mr. Dawson presented the petition of Lydia Smith, praying the remission of the State price on 200 acres of land in Warren county.

Which being received, were severally read and referred, to the committee of propositions and grievances.

Mr. McAfee, from the committee to whom was referred the contested election of Thomas D. Owings, made a report, which was committed to a committee of the whole house on the state of the commonwealth, for to-day.

The Senate received from the Governor, by Mr. Secretary Monroe, a message in writing. The rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

and of the House of Representatives,

I LAY before you the Report of the Commissioners appointed to appear, on the part of this State, before the Board of Commissioners expected to have been organized in conformity to the Convention which had been concluded between the Commissioners of Virginia and this State; together with the Resolution of the Legislature of that State, communicating to this Government, that they had refused to ratify that Convention. Those papers require from me no commentary; but I cannot, in justice to Kentucky, nor to my own feelings, which are believed to be in unison with those of the community, omit also to transmit the "Vindication" of our Occupying Claimant Laws, contained in the petition alluded to in the Report, and which has since been addressed to me, and through me, to the People of Kentucky, whom you represent. This document, manifestly the production of great intellect and laborious research, not only establishes the compactionality of those laws, but successfully vindicates Kentucky's integrity in faith, and justice in policy. It is therefore submitted, that it may be incorporated in the records of that body, whom it defends, as a perpetual testimony to the world and posterity, of its uprightness. The distinguished authors of this document cannot fail to find their re-

ward in approving consciences, for not only this act, but for their patriotic and unceasing efforts to sustain the rights of our State; nor can a just people withhold their applause. Whatever may be the result of the present crisis, those patriotic counsellors, who, on all questions, in every form, have been found the advocates of the rights of the people, must be rewarded by the gratitude of their country. Notwithstanding the failure of this mission, our counsel unquestionably deserve our approbation, for the very prompt, able and faithful performance of all that could be done. To make an allowance proportionate to the importance of the occasion and the eminent talents employed, will be our duty.

With due respect, yours, &c.

JOHN ADAIR.

November 7, 1823.

REPORT.

THE undersigned, appointed by the General Assembly, Counsel to represent this State before the Board of Commissioners which was expected to be organized at the City of Washington, in January last, in conformity to the Convention which was concluded and signed by the respective Commissioners of the States of Virginia and Kentucky, on the 5th day of June 1822, have the honor now respectfully to report:

That on considering the duties incident to their appointment, it appeared to them, that if they remained in Kentucky until the decision of Virginia, on the Convention, was communicated to the Governor of Kentucky, if that decision were in favor of its ratification, there might not be time for them to reach Washington, so as to afford the requisite co-operation in the constitution of the proposed Board, by the day prescribed in the Convention; and not doubting that Virginia would ratify the solemn act of her own Commissioner, to which the General Assembly of Kentucky had promptly yielded its assent, the undersigned determined, shortly after the close of the last session of the Legislature, to proceed, without delay, to the City of Washington: That accordingly they arrived there some days before that which was assigned for the assembling of the Board, thus manifesting a ready disposition to execute, in good faith, on the part of Kentucky, a Convention which had been concluded and ratified by it in good faith: That, greatly to their surprise, they there learnt that difficulties existed at Richmond, about the ratification of the Convention; and that, although the House of Delegates of Virginia, by a large majority, had resolved to approve and execute it on the part of that State, its fate in the Senate, the other branch of the General Assembly of Virginia, was extremely doubtful: That the deliberations of this body were long protracted; the Senate disagreeing in opinion with the House of Delegates, an unavailing attempt

was made, to reconcile the two branches; and it was not until the 18th of February last, several weeks after the Board should have been organized, that the final decision of Virginia was made, to reject the Convention: That this decision was communicated to the undersigned, some days after, and may be seen in the paper which is hereto annexed, marked A: That during the continuance of those deliberations, they thought it their duty to remain at their post, and thus to exhibit to the world, a further proof, that if what had been conceived and agreed upon in a spirit of concord and concession, were not carried into complete effect in a similar spirit, the fault was not on the side of Kentucky.

That the honorable Jacob Burnett, having accepted the appointment of Commissioner, conferred upon him by Kentucky, proceeded to Washington, and arrived some days before the one fixed for the assembling of the Board, and continued there until the decision at Richmond was known: That they would suppress their feelings, if they did not make this public acknowledgment to that gentleman, for the promptitude with which he repaired to that City, under circumstances, at that inclement season of the year, of great personal suffering and inconvenience, and for the patience with which he remained until the pleasure of Virginia was known. That the honorable Hugh L. White, for reasons which the General Assembly will deem satisfactory, declined accepting the appointment of the other Commissioner; but the undersigned were always ready, in execution of the power with which they had been invested, to supply, without loss of time, the vacancy which they regretted had been thus created.

That after the fate of the Convention at Richmond was known at Washington, the Supreme Court of the United States delivered its opinion and judgment on the Occupying Claimant Laws, the validity of which was involved in the cause of Green and Biddle: That they were delivered by Associate Justice Washington, in a Court composed of four Judges, the Chief Justice and Associate Justice Todd not having sat in the cause, and Associate Justice Livingston being confined by extreme indisposition: That upon observing that a division in opinion existed among the Justices who constituted the Court, an inquiry was made by the undersigned, whether Mr. Justice Livingston had formed and expressed an opinion in the case; to which Mr. Justice Washington answered, that he did not know what his opinion was, if he had made up one, and Mr. Justice Johnson added, that the decision was that of three to one.

That when the determination of the Court was thus announced, believing it to be erroneous, the undersigned resolved to make another effort to sustain those Laws, of the validity of which, they could not yet doubt, after the most respectful and deliberate consideration of the argument of the majority of the actual Court:

That they accordingly prepared, with great labor and as much care as the limited time would admit, a respectful petition to the Court, praying a re-hearing of the cause. When they presented this petition, the Court manifested a decided repugnance, even to receive and read it; Mr. Justice Story stating, that he could not conceive it possible, that his mind could be further informed on the subject. A majority of the Justices, however, decided to take the petition and read it at their chambers. It was returned the next morning, with an intimation from the Court, that it had produced no change in its opinion.

That the Treasurer paid to the undersigned the sum of \$ 6,000 in specie, in pursuance of provisions made by the General Assembly for that purpose. Of that sum they have expended, in payment to Judge Burnet, for his travelling allowance and compensation for his attendance at Washington, the sum of \$ 744, as will appear by the receipt annexed, and designated B. That \$ 5,256, the residue of the sum advanced, remain in their hands, subject to the order of the General Assembly. They have returned no part of it to the Treasurer, because no law or order indicated that to be their duty.

All which is respectfully submitted.

H. CLAY,
JOHN ROWAN.

Frankfort, November 4th, 1823.

(A.)

THE General Assembly of the Commonwealth of Virginia, having, by an act of the last session, appointed Benjamin Watkins Leigh, Esq. a Commissioner to wait on the Legislature of Kentucky, to invite their attention to certain claims of the Officers, Soldiers, Sailors and Marines of the Revolution, belonging to the Virginia Line, and to ask of the said Legislature, provision by law for the satisfaction of those claims; or, if that were not granted, the organization of a Board of Commissioners, in conformity with the 8th article of the Compact between the two States, for the purpose of deciding all matters in controversy between them:

The Legislature of Kentucky having declined to make the legal provisions asked of them; but having consented to organize a Board of Commissioners for the purpose aforesaid, and appointed Henry Clay, Esq. a Commissioner on their part, to arrange with the Commissioner on the part of this Commonwealth, the terms on which said Board should be constituted:

The said Commissioners having, on the fifth day of June, in the year 1822, entered into a Convention for the organization of the said Board, and agreed on certain contingent articles in relation thereto, reserving to their respective States the right of ratifying or rejecting them:

E

17580

The Convention and contingent articles aforesaid having been ratified by the Legislature of Kentucky; having been laid before the General Assembly, and most attentively and respectfully considered; having been approved by the House of Delegates, and sanctioned by a bill passed in that House and sent to the Senate for concurrence; but not having been sustained by the Senate, because, after much deliberation, they deemed the contingent articles aforesaid inadmissible; and they having amended the said bill, so as to reject them; by reason whereof, and of the inability of the two Houses to agree on the subject of said amendment, the bill aforesaid hath been rejected, and the Convention, with the contingent articles aforesaid, have not been ratified by the General Assembly:

And the General Assembly deeming it respectful and fit that the result of their deliberations on this subject should be officially communicated to the Government of Kentucky, accompanied by an avowal, that their sincere desire to maintain unimpaired the friendly relations which have hitherto subsisted between the two States, inspires a hope, which ought not to be suppressed, that future Legislatures of this Commonwealth and Kentucky may be more successful in arranging the terms on which the matters in controversy can be finally and happily adjusted between them: Therefore,

Resolved, That the Executive of this Commonwealth be requested to communicate to the Government of Kentucky, that, for the causes above explained, the Convention and contingent articles agreed upon as aforesaid, have not been ratified by the General Assembly; and to express the deep regret of this Assembly, that a difference of opinion, as to the means, should have rendered unattainable, at this time, an object of so much interest; and to declare their anxious hope, that the wisdom and good dispositions of future Legislatures may yet succeed in removing all causes of difference between two States whose interests and sympathies should bind them together by the strongest ties.

Agreed to by the Senate and House of Delegates of Virginia,
February 18th, 1823.

WM. MUNFORD, C. H. D.

(B.)

Allowance for travelling to and from the City of Washington, 1120 miles,	448
Thirty-seven days' attendance at the City of Washington,	296

\$ 744

Washington City, February 27th, 1823—Received of Henry Clay, Esq. seven hundred and forty-four dollars, in full of the above account; it being the compensation allowed by the Commonwealth of Kentucky to the Commissioners under the Convention with Virginia,

J. BURNET.

1520

HIS EXCELLENCY JOHN ADAIR,

GOVERNOR OF KENTUCKY.

Dear Sir:

THE freedom of this address to you, if it needs any apology, will find it, in the extent and depth of the interests which its subject-matter involves and the exalted posture which you so justly occupy, in relation to the public interests. There is certainly no topic so interesting to the people of Kentucky, as the *validity* of those laws which furnish to them that hope of reward, which sweetens labour. Of the same interesting character are those laws, which, while they tend to silence litigation by limiting the period within which it may be reasonably indulged, give repose to occupancy and thereby furnish incentives to industry. Of this description are the occupying claimant laws of this state, and the laws of limitation in relation to real actions. The Supreme Court of the United States, at its last term, in the case of *Green vs. Biddle*, has expressly declared the former to be impactional and void, and *virtually*, as I apprehend, uttered the same sentiment in relation to the latter. This opinion was delivered towards the close of the term, and about the time at which it was ascertained that Virginia would not affirm the arrangements which she had, by her authorised agent, made with Kentucky, for the final adjustment of those interesting topics, by a tribunal of the compact.

Whether Virginia found a motive for the strange and unprecedented capriciousness of her conduct in this particular, in the anticipation of what would be the opinion of the court, it is not for me to conjecture. Judges Washington, Johnson, Story and Duval composed the court, when the opinion was delivered. Judge Johnson dissented. The Supreme Court consists of seven Judges—Three of the seven, a minority of that tribunal, have declared those laws to be unconstitutional and void. As soon as a copy of the opinion could be procured, (and it could only be obtained upon the express condition that it should not be published,) the following petition for a reconsideration of the case, was drawn up and presented. The Court would not hear it read, and it was with great apparent reluctance, that Judges Washington and Duval agreed to take and read it in their chamber. Judge Story would not assent to even that measure. Judge Johnson was throughout favorable to the application. It was on a subsequent morning overruled. It is now published in the confident expectation that it will receive from your excellency, and through you, from the good people of this state, a more gracious reception, than it experienced from the tribunal to which it was presented. It will experience also, it is hoped, from those to whom it is *now* submitted, that kind indulgence which its many imperfections may

need. The late period of the term at which the opinion was pronounced, the uncertainty of the time at which it would close, and the zeal which was felt to avoid, if possible, the calamity which it was likely to inflict, imposed upon the writer a *haste*, which, combined with other unpropitious circumstances, forbade him to bestow upon the subject that leisure and attention, which are necessary to the exhibition of important matter, in an ornate and polished manner. Cases are now depending before that court, involving the validity of the replevin laws, the valuation law, and the law abolishing imprisonment for debt, together with the validity of the laws of limitation in relation to real actions, so that in fact, almost all of the sovereign power not denied to this state in the opinion above alluded to, is awaiting its fate upon the docket of that court. I remained at the City of Washington until the expiration of the term, in the view to vindicate the validity of those laws, to the extent of my feeble powers, should the causes involving them be reached by the court in its progress on the docket—But they were not reached.

The occupying claimant laws, and the laws of limitation in relation to real actions, were exacted by the circumstances and condition of the country, and the nature and character of the very numerous conflicting claims to the lands therein. They were alike necessary to its prosperity and repose. What is now to be done? Are they to be abandoned, and if they are, what is to be substituted? Can the country do without them, or some equivalent provision? Must every enactment by this state in relation to those interesting subjects, be void or valid, as the Supreme Court of the United States shall ordain? These, sir, are questions of infinite importance which the existing state of things present for your deliberation, and that of the people of Kentucky, over whose interests you preside. That they may receive that attention, and experience, seasonably, that calm deliberation, which their intrinsic importance, and the circumstances and condition of the country would seem to require, is the ardent wish of your obedient servant, and personal friend,

JOHN ROWAN.

Louisville, April 20, 1823.

P. S. This publication is made without the knowledge of Mr. Clay. That gentleman has not yet returned to Kentucky, and I have not had an opportunity, since my return, of consulting him on the subject.

J. R.

THE PETITION.

The undersigned would most respectfully solicit the Court to reconsider the case of Green and Biddle.—They are aware that this case has already experienced the special indulgence of the

Court; and they would not again attempt to obtrude it upon their consideration, if they had not the most unqualified conviction, that the interpretation given to the 3rd Article of the Compact between Virginia and Kentucky, in the opinion pronounced in that case, is (they would express it with much deference,) misconceived and erroneous; nor would they, if the effects of this misinterpretation were, in this, as in common cases, limited to the particular case, have presumed again upon the time and patience of the Court; but its effects are likely to be co-extensive with the state, and afflicting beyond all parallel.

They, therefore, solicit the patient attention of the Court, while they attempt, with the utmost practicable brevity, to exhibit what they conceive to be the *true* construction of that Article of the Compact. That compact, like all contracts, can only be obligatory to the extent of the will of the contracting parties expressed therein, or to be inferred therefrom; for it is a settled principle as well in municipal as natural and moral law, that volition is the only true basis of obligation. When the words of a contract do not express clearly and explicitly the will of the parties in relation to the subject-matter thereof, it is to be ascertained by construction. In this process all the parts of the contract are to be considered together, and the import of the words employed therein to be explored with any eye, not only to the *canons* of grammar and philology, but to the *nature* of the *subject-matter*, and to the character and condition of the contracting parties. By ascertaining first, the great leading object of the parties, the *end*, at which they aimed in the contract, we are enabled to assign to the subordinate subjects embraced by its stipulations, each, its true relative subsidiary posture, and thereby avoid that confusion of subjects, and of ideas, which is but too apt to display its wildering influence in the process of construction, especially in matters of complicity.

The great leading object contemplated by the parties to this compact, was the erection of the District of Kentucky, then a portion of the territory of the state of Virginia, into a *sovereign and independent state*. The compact purports to contain the terms upon which Virginia and the District of Kentucky, the parties thereto, assented to that object.

The first article contains a delineation of the boundaries of the proposed state.

The second consists of pecuniary stipulations exclusively.

The third is in the following words, viz. "That all private rights and interests of lands within the said district, derived from the *laws* of Virginia, *prior* to such separation, shall remain valid and secure under the laws of the proposed state, and shall be determined by the laws *now* existing in this state,"

Fourth, "that the *lands* within the proposed state, of non-resident proprietors, shall not in any case be taxed higher than the lands of residents, at any time prior to the admission of the proposed state to a vote, by its delegates, in Congress, when such non-residents reside out of the United States, nor at any time either before or after such admission, where such non-residents reside within this Commonwealth, within which this stipulation shall be reciprocal; or where such non-residents reside within any other of the United States, which shall declare the same to be reciprocal within its limits; nor shall a neglect of cultivation or improvement of any *land* within either the proposed state, or this Commonwealth, belonging to non-residents, citizens of the other, subject such non-residents to forfeiture or other penalty, within the term of six years, after the admission of the said state into the Federal Union."

The court, in forming the opinion, seem to have confined their attention exclusively, to the provisions of the 3d article, and to have drawn all their arguments from what they conceived to be the legal import of its phrases. The undersigned would most respectfully suggest the propriety, and even necessity, of considering, at least, the 4th, in connection with the 3d article, in order to ascertain by construction, the true meaning of the latter. Under the conviction that the consideration of the true import of the 4th is necessary to the just interpretation of the 3d, the two have been herein above, literally transcribed.

In construing the 3d article, the first inquiry to be made is, what did the parties to this compact, mean by the provision that all private *rights* and *interests* of lands within the said district, *derived* from the *laws* of Virginia, prior to such separation, shall remain valid and secure under the *laws* of the proposed state, &c? In order to be enabled to answer this question satisfactorially, we should examine the laws referred to in the article itself, by the words *derived* from the *laws* of Virginia. And here we beg leave most respectfully to protest against the sentiment of the court, that the common law of England, is to be understood as part of those *laws* of Virginia, whence the *rights* and *interests* of lands, in the then district, were *derived*. Because 1st, no rights or interests of lands in Kentucky originated in the common law of England, and if they did not originate in the common law, they cannot be said to have been derived from it; and next, because the words "*laws of Virginia*" do not, *ex vi terminorum*, include the common law of England. On the contrary they exclude that law. We are aware that the common law of England, and the British statutes enacted in aid thereof, before the 4th year of King James the first, were introduced into the state of Virginia by an ordinance of the convention of that state in the year 1776. The common law of England and the British statutes had, after the creation of the ordinance and by virtue thereof, force in Virginia, not under the de-

nomination of the laws of Virginia, but under the denomination of the common and statute law of England. They were not either in common parlance, or in the language of judicial decision, designated as the *laws of Virginia*. They are not so designated in the ordinance above referred to. The successive revisals of the Virginia laws contain only the statutes enacted by that state, and they are denominated by the legislature, the bar, and the courts of that state, the revisals of the *laws of Virginia*; for instance, the Chancellor's revisal of the laws of Virginia. The laws, then, referred to in the 3d article of the compact under the denomination of the laws of Virginia, *whence* the rights and interests of lands therein mentioned, are stated to be *derived*, were not, we must again respectfully urge, the common or statute law of England. They were those *statute laws* of Virginia, under, and by authority of *which alone*, rights and interests of land, in the then district of Kentucky, had accrued.

The first law under which any claim was asserted to land in the district of Kentucky, is an act of the Virginia legislature, passed in the spring of the year 1779, and is known in Kentucky, at this day, by the appellation of the *land law of Virginia*. All the rights which existed to lands in the district of Kentucky, at the date of the compact, were *derived* from that law, and a few subsequent subsidiary enactments by the legislature of that state. Under that and the subsequent laws of Virginia upon the same subject, the lands in the district of Kentucky, had been brought into market, and there existed at the date of the compact, under those laws, an infinite number of claims to land in that district—claims to more than three times the quantity of all the lands in the district.

The rights under which those claims were asserted, were almost as various in grade and character, as they were numerous.—There were proclamation rights, military rights, settlement rights, pre-emption rights, village rights, poor rights, treasury rights, &c. &c. In the preamble to the act of 1779, to which reference has been made, there is, among other matter, the following recital, viz: "And it is necessary for the public weal, that some certain rules should be established for settling and determining the *rights* to such lands and fixing the principles upon which legal and just claimers shall be entitled to *sue out grants*."—See 1 Litt. p. 392.

In this recital, the legislature most certainly employed the word *rights* to import something less than an absolute title, with which, under the name of grant, that word is contrasted. The 1st section of the same article, contains a recital of several of the rights above enumerated, in none of which can that word, (*rights*) be understood, without doing violence to the explicit meaning of the legislature, to mean a consummate title, a grant. The following are some of the closing expressions of that section:

"All persons claiming lands upon any of the before recited *rights* and *under surveys* made, &c. &c. shall, upon the plats and certificates of such surveys being returned into the land office, together with the rights, entry, order, warrant, &c. be entitled to a grant or grants for the same."* Here likewise, the word *rights* is defined to mean an inchoate claim to land, a claim in degree, lower than that by grant. In the 2d section of the same article, which is in the nature of a proviso to the first, the word *rights* is employed in the same sense. In the 3d section of the same article, the words *rights* and *grant*, are employed by the legislature with the like contrasted import, viz; "Rights to mean an imperfect, a qualified claim; grants to mean a perfect and absolute title."† In short, throughout the whole of that article, and the subsequent enactments, (and they, it is repeated, are the only laws under which rights and interests of lands in Kentucky originated) those words are employed to designate, indiscriminately, every grade of claim to land, except that by grant. The incipient right, of whatever character, settlement, pre-emption, village or treasury, is merged in the warrant; that is, merged in the entry, and that in the survey, and the survey in the grant. The character of the incipient right is defined in the warrant, preserved throughout each successive grade, and impressed upon the grant, in which, being consummated, it is merged.‡ But the grant is no where throughout those articles, pointed at or designated by the term *rights* or *interests*.§ There is a provision in the act of 1779, to which reference has already been made, in relation to foreigners or aliens, calculated, it is believed, to throw some light upon this subject. It is in the following words: "All persons, as well *foreigners* as others, shall have right to assign or transfer warrants or certificates of survey for lands; and any foreigner purchasing lands, may locate and have the same surveyed, and after returning a certificate of survey to the land office, shall be allowed the term of 18 months, to become a citizen, or transfer his right in such certificate of survey to some citizen of this, or any other of the United States."|| So that aliens could have rights and interests of lands in the district of Kentucky; but they could not have absolute title thereto, while they remained aliens; and 18 months were afforded to them, to become citizens, and consummate their *rights* in *grants*; or they might transfer their *plats* and certificates of survey to citizens, who could obtain grants thereon. So far as the claims to land consisted in *rights* and *interests* of lands, according to the statutory meaning of those words, aliens and citizens occupied the same ground, enjoyed under the statute the same faculties of appropriation, but no further. Aliens could not possess more than an inchoate title. It would seem, therefore, very clearly, by reference to the only laws of Virginia, from which

*1 Litt. 393. + 1 Litt. 394, 10. †1 Litt. 408, 10. ‡1 Litt. 414, 15. ||1 Litt. 415.

rights and interests of lands in Kentucky were derived, that the rights and interests meant by the 3d article of the compact, were not those, which, by the operation of the common law of England, result or flow from the *land* to the person who has the complete legal title thereto. But they were *inchoate* rights, existing in the person, who possessed a warrant, an entry or survey, to the lands embraced therein; and not flowing from the lands to him. It is therefore evident, that aliens could have rights and interest of lands in the district of Kentucky, derived from the laws of Virginia; and it is not less evident, that neither the common nor statute law of England, formed any part of those laws of Virginia, from which these rights were derived to aliens. For those laws, so far from conferring, by their operation, rights of lands upon aliens, disqualified aliens from possessing those rights; and as no distinction is made by the statute, between citizens and aliens, as to their possession, or their capacity to possess and transfer those rights of lands; and as the common law negatived their possession by aliens, and could not create and confer them upon citizens, it would seem to follow, very obviously, that the rights of both were derived from the same laws; the statute laws of Virginia, exclusively; and as obviously that the rights and interests of lands mentioned in the 3d article of the compact, were of the inchoate, imperfect sort, meant by the legislature in its use of the same words, in relation to aliens and citizens indiscriminately. The faculty of transferring them, given by the laws which created them, to those who possessed them, merely by endorsement, would seem to indicate that they were rights that savored more strongly of the personalty than the realty; that they were rights to the land *acquirable*, rather than *acquired* rights. The warrant, the location, and the survey were all rights of land, of different grade, giving to the owners, an interest in the land, commensurate with his grade of right, which interest might be considered as bearing the same relative proportion to that of an absolute title, which the agency producing that grade of right, would be considered to bear to the whole series of acts and expenditures, necessary to the obtention of a grant. But these rights and interests were contingent; they depended upon the inclination and capacity of their owners to carry them into grant, and upon their exerting that inclination and capacity, within the period and conformably to the modes prescribed by the statutes.

It may be confidently asserted, that five-sevenths of all the claims to lands in the district of Kentucky at the date of the compact, were of this inchoate and imperfect sort. At that period grants had issued for but a very small portion of the lands in Kentucky, and these had been obtained chiefly by non-residents, who had, without coming to the country, (a matter not in those days *vastly secure*), hired the entering and surveying of their lands. They pos-

possessed the means of defraying the expenses incident to the most rapid practicable process of appropriation, and they availed themselves of those means. When we enquire what would have been the fate of these imperfect claims, these rights and interests of lands in the district of Kentucky, upon the unconditional erection of that district into a state, we will find the motives which influenced Virginia to exact from Kentucky the stipulations contained in the 3d article of the Compact. These rights must all have perished; Kentucky, without that stipulation, would have been under no legal or political obligation to preserve them, to enact laws for their effectuation; on the contrary, she might have felt a strong disinclination to do so. Without the provisions of that article, Virginia would have been liable, to that host of claimants for whose rights she had made no provision; and the more so, when it was considered, that she had sold rights to more than three times the quantity of land she possessed in the district; and after having done so, had permitted the very lands which she had thus thrice sold to be melted down into vacant lands in order to swell the domain of the proposed state.

Virginia had, therefore, a *double motive* to exact from Kentucky a stipulation for the validity and security of those rights: 1st, Her own aggravated liability to the claimants; and next, a sense of common justice, not only to the claimants, but to her own reputation. Those rights of land, being statutory existences, unknown to, and unprotected by the common law of England, dependent solely upon the code in which they originated, for their protection and effectuation, needed the provisions of that article of the compact. They must, it is repeated, have perished without it. Not so in relation to lands existing in grant; they needed no such stipulation. There could be no motive on the part of Virginia, to demand it in their behalf. The import of a patent for land under the seal of sovereignty, and the laws of its nature and construction, were known and recognized throughout the civilized world. It could not decently have been predicated by Virginia of Kentucky, that she would violate the sanctity of the great seal; that she would outrage those tenures of real property, which all the world beside, acknowledge, reverence and maintain; which war in its most frenzied mood, would not violate, and which even lawless and triumphant invasion had always forborne to profane.

Besides, the constitution of the United States had been framed and adopted. It existed *proprio vigore*, and had superadded to the security which patent tenures possessed in the universal sentiment of civilized man, the protection of its impenetrable Ægis. No stipulations of the pactional sort, which Virginia and Kentucky could have framed, would have afforded to the patent tenures of land in the district of Kentucky, that perfect and ample protection,

which they at that time enjoyed, not only in public sentiment within the precincts of civilization, but under the constitution of the United States. On the other hand, the private rights and interests of lands had no hope, could have no hope of protection from any source, other than that in which they found it, in compact. The 3d article, then, was most obviously framed with an eye to the weak and imperfect condition of that very numerous class of claims, which, without that sort of protection, must all have perished upon the unconditional erection of that district into a state. In that event, the laws upon which those rights depended, and by which they were to be effectuated, and the machinery necessary to their effectuation, would all have been gone. The Surveyor, the Register and the Executive, whose concurrent agency was necessary to their consummation in grant, would all have been wanting. Not so, it is repeated, of the patent tenures of land in that district. They needed no legislative aid or sanction from the new state; they were alike regardless of the favors and the frowns of the new government. When lands are patented they are then the subject of the common law inferences, ascribed to them by the opinion of the court, and upon the supposition that they were embraced within the provisions of the 3d article of the compact, under the denomination of rights, &c. would enjoy the sanctity ascribed to them, if indeed, a stipulation to that effect could have validity. But a word more in relation to the import of the words rights and interests of lands as used in the 3d article of the compact. They are employed by the legislature of Virginia in an act passed in the year 1781, in the manner following: "And when, &c. the surveyors of the counties on the eastern waters should survey, &c. all lands regularly entered, &c. by the end of the session of the assembly, and it not being in the power of the party *claiming such entry* to compel the surveyor to perform his duty, &c. It is therefore unjust that he should lose *his rights, &c.*"* What rights is it unjust that he should lose? His private right of the land which he had regularly entered. In what did his right consist? In the entry of land which he had thus regularly made, the entry which he could not compel the surveyor to survey. The act continues: "Be it therefore enacted, that the surveyors shall proceed with all practicable despatch to survey the *said entries* before described, &c. &c. and the party *interested* shall be subject also to the same *forfeitures of right* if he fail in any thing, &c."† Who was the party *interested*, and in what did his interest consist? The party was the owner of the entry, and his interest consisted in the entry. What was to be forfeited if he failed? &c. His right. To what? To the entry of lands in which he was interested. The rights and interests of lands consisted in this class of cases in entry. Had those entries been surveyed, the

* 1 Litt. 454-5. † 1 Litt. 455.

rights and interests of the lands, would have consisted in the surveys, and would have been liable to forfeiture if the plats and certificates thereof had not been returned to the Register's office, and the fees paid thereon within the prescribed time.

The Virginia legislature passed an act in the same year, authorising the county courts to make an order upon the surveyors of their respective counties, to lay off and survey for poor persons of a certain description, a tract of vacant land, not to exceed 400 acres for each person; for which such person was to pay, within two and one half years, twenty shillings per 100 acres, in specie; and the following is the phraseology of so much of that act as relates to the non-payment thereof: "And in default of making such payment, all *right* and *interest* to such surveys shall be forfeited." [1 Litt. 431.] These were poor rights; and in this class, the right and interest consisted in the survey. In the two last recited acts, the words, *rights* and *interests*, are employed by the legislature of Virginia, in the same *collocative* association, in which they are used in relation to the same subjects, in the 3d article of the compact. In these, as in all the laws of Virginia under which claims could exist to lands in Kentucky, those words are used in the same sense—to designate the grades of inchoate rights, as they existed in warrant, in entry, and in survey; but never in relation to the land, as importing its identification with the technical or common law meaning of those words.

Then, we think, with great deference, that in construing the 3d article of the compact, and particularly in searching for the meaning of the words, *private rights* and *interests* of lands, it could not have occurred to the court, that the very laws under which those *rights* and *interests* had arisen, and by which they had been created, had defined them to mean any thing else than land, patented land; had defined them to mean every kind of right to land, except that by grant or patent; had defined them to mean the incipient, and all the advancing grades of right to land, but not the ultimate and consummate right by grant.

Having ascertained, from the laws under which alone the lands in Kentucky could be appropriated, that the words, *private rights* and *interests* of lands, did not mean the land itself, nor the rents, profits and issues thereof, nor patents or grants therefor; that the fee simple title to at least five-sevenths of it, was, at the date of the compact, in the Commonwealth of Virginia, and passed from her to Kentucky, upon its erection into a State; we proceed to enquire into the meaning of so much more of the 3d article as relates to the validity and security of those rights and interests which were derived from the laws of Virginia. The words are, "and shall remain *valid and secure* under the *laws* of the *proposed State*." What was to remain valid and secure? Not the lands; that would be an outrage upon all the proprieties of speech, a violation of the con-

gruities. If the lands, by a figure of speech, were meant here, by the words, rights, &c. the figure would outrage the truth of the case; because five-sevenths of them had not been secured—were insecure; and the meaning could not be, that, that which was *insecure* should *remain secure*, and that, that which was *invalid* should *remain valid*. But the inaptitude of this exposition is more glaring, when it is supposed that the land should remain *secure* and *valid* to those private persons who had not secured them, and might never do so, under any circumstances, however auspicious.

It can with as little propriety be interpreted to mean the rents, profits or issues of *wilderness lands*, in their forest state, unreduced to a cultivatable condition. What, then, it may be again asked, is the meaning of this clause of the stipulation? When we consider, that the rights and interests of lands which were to remain valid and secure, were to remain so under the *laws* of the *proposed State*; that those rights were inchoate, and would require the legislative enactments of the proposed State for their effectuation; that they could not exist, after the sustaining energies of their parent code should be withdrawn, without the legislative protection and assistance of the proposed State; still less could they advance to their consummation in grant, without that protection and assistance; we become satisfied the meaning evidently is, that the proposed State obliged herself, by this stipulation, to furnish, by her enactments, the necessary facilities to the effectuation of those inchoate rights. Such enactments on the part of the proposed State, were essential to their *validity and security*; for Virginia, after the erection of Kentucky, could do no act, by which their validity and security could have been promoted, or permanency thereto afforded.

Having ascertained, as we believe, the laws from which the rights and interests of lands in Kentucky were derived, and thereby ascertained the meaning which those words were employed, in the 3d article of the compact, to convey; and having ascertained the character of the laws of the proposed State, under which they were to remain valid and secure, (that is, were to be protected and effectuated,) it remains, that we enquire into the third and last clause of that article: "And shall be *determined* according to the *laws now existing in this State*."

Some difficulty, it is acknowledged, presents itself in disposing of this adverb, "*now*." Is it to be construed to mean the period at which the compact was made, which was the 18th day of December 1789; or the period at which the District of Kentucky was erected into a State? According to either, or any meaning which the word will bear, in the connexion it holds with the words with which it is here associated, there is much difficulty. That difficulty, however, is unimportant, as will be shown hereafter, to the main object of this discussion.

If it be construed to import the time at which the compact was made, then its operation would be to destroy a very great proportion of those very rights of land, which it was the object of that article of the compact to preserve secure and valid; for, at the date of that compact, the law under the authority of which alone, locations of land could be surveyed, was about to expire; and in that event, all the entries which had not been surveyed, would be forfeited. And the law which authorised the register of the land-office to receive and record plats and certificates of survey, was then shortly about to expire; and in that event, all the surveys which had not been returned to the land-office, would, together with the entries upon which they had been made, expire with it. [See 1 Litt. 460, 1.] Both these laws were continued by the legislature of Virginia, at its next session, in 1790; the first, for two years; the second, for nine months. The second was afterwards again continued by the legislature of Virginia, at its session in the year 1791, for two years. But if it should be construed to mean the time at which the compact was made, these subsequent enactments, prolonging the time, would, being in violation of its import, on that account be void, and the rights and interests of land, which that article of the compact and these laws intended to preserve, would most inevitably be destroyed.

Nearly the same results present themselves, if the word *now* be construed to mean *then*, viz. the 1st of June 1792, when the new State went into existence; because the above enactments of the Virginia legislature, prolonging the time for surveying, and for returning plats and certificates of survey to the land-office, expired in that year; and although the State of Kentucky, by various successive enactments, prolonged the periods for both purposes; for that of surveying, for six years, and for that of returning plats and certificates of survey to the land-office, for twenty years; yet those laws of prolongation were not *laws existing* in Virginia; nor were they existing laws, under either of the interpretations of the word *now*. It cannot be rejected; the canons of construction forbid its rejection. And yet, if it be retained, there seems to be great difficulty, in preserving from forfeiture, greatly the largest portion of the rights of lands in Kentucky, say two-thirds. Those forfeiting laws, just alluded to, having been enacted on the same subject, must be regarded and construed together with this article and the other statutes on the same subject. They are in *pari materia*. In the process of construction, words may, and indeed often *must* be limited in their import, by the subject-matter in relation to which they are used. If we have been fortunate enough to satisfy the court, that the rights and interests of lands, which were to be taken care of under the provisions of this article of the compact, were derived, not from the common law of England, but from the *statute laws* of Virginia, in which they had originated, and by

which they had been created; that they are so defined in those laws, that they must mean such inchoate rights as existed in warrant, entry or survey of lands, and not in *grant*; that the enactment of laws by the proposed State, was necessary for their protection and effectuation, and that the provision in that article, that they should remain valid and secure under the *laws* of the proposed State, imposed upon the new State the obligation to enact such laws, may we not, in conformity with all the rules of just construction, interpret the words in the last clause of that article "and shall be *determined according to the laws now existing in this state*," to impose an obligation upon the new state, to regard the special provisions of the statutes which created those rights, in determining upon them, when they should be called in question? By reference to those statutes it will be found, that those rights were subject to be searched and their validity determined, in a proceeding upon *caveat*, in the trial of which, the court, according to the principles prescribed by those statutes, *searched the heart*, and tried the *reins* of the conflicting claims. The common law furnished no mode of trying the validity of a warrant, an entry, or a survey, in the *unique* and *sui generis* character given to those rights, by the statutes from which they were derived. To regard, in determining upon those rights, the criterions of their validity, furnished by the statutes which had created them; the principles of discrimination and preference, defined by those laws; and to regard those statutes as the rule of decision in whatever related to the nature or essence of the rights; taking this as the interpretation of this latter clause of that article, we can assign a rational, harmless and operative import to the word *now*. The laws from which those rights and interests were derived, *had been enacted*. The laws under which they were to remain valid and secure, were *thereafter to be enacted*. The *laws*, those existing, and those to exist, are contrasted, in relation to their functions. The states are contrasted, in relation to the origin of those laws; the state of Virginia, and the proposed state. The laws are contrasted as to time also. Thereafter the *proposed* state should, from time to time, as occasion might require, enact laws for the effectuation of those rights; and thereafter indefinitely, as cases might occur, should determine them, according to the laws from which they were derived and under which they *now* exist, viz. at the date of the compact. Why, it may here be asked, should the word *laws*, as used in the last clause, be construed to mean a different character of laws from that meant by the use of the same word, in the two previous instances, in the same article, and in relation to the same subject matter, and by the same parties?

But we may, perhaps, derive some aid, at this point of our progress, from the 12th section of the great act of 1779, to which act, we have already had occasion to refer. It is in the following

words, viz. "And whereas, at the time of the late change of government, many caveats against patents for lands, which have been entered in the council office, were depending and undetermined, &c. Be it enacted, that all such caveats with the papers relating thereto, shall be removed to the Clerk's office of the general court, there to be proceeded on and *tried* in the manner directed by law for future caveats; but the same shall be determined according to the laws in force at the time they were entered, and upon the determination of such caveat, a grant shall issue, &c."—[See 1st Littell, 406.] This enactment was, there can be no doubt, the prototype or model, upon which the last clause of the 3d article of the compact was framed. In this enactment, the state of Virginia having just escaped from its colonial condition, prescribed to itself, the same *rules of decision*, which it exacted from Kentucky, upon its assuming the attitude in relation to Virginia, which that state had assumed in relation to its colonial condition. The rule is precisely the same in substance in both cases. In each case, it relates to the same class of subjects, viz. private rights and interests of lands. The words in the act just quoted are, "*And shall be determined by the laws in force at the time they were entered.*" The words of the compact are, "*And shall be determined by the laws now existing in this state.*" Does the word, laws, as used in the act, mean the common law of England, and the British statutes made in aid of it? Certainly not; for those were the domestic laws of the colony, and had been domesticated by the state of Virginia. It would have been idle to have declared that those rights should be tried or determined by the laws in force at the time of their origination, if those very laws were all in force at the time of the declaration. We know that the common law was alike in force at both periods. The common law could not have been meant by the legislature. What laws then did they mean? The special statutes from which the rights were derived, under which the entries of the lands had been made. Those statutes either had gone, or were about to go, out of force, and the state of Virginia constrained her Judiciary to be governed by them, in determining upon the rights, which originated under them.

The laws upon which the private rights and interests of land in the district of Kentucky depended, would not be in force in the proposed state; not if that state should even adopt the common law of England. They were statute laws of Virginia; but according to the clause of the 3d article of the compact just quoted, the new state was bound, that those rights, so far as they might be involved in any judicial proceedings within her limits, should be determined according to the laws in force when those rights accrued; that is, the laws under, and by virtue of which they did accrue. And this Kentucky was bound to do, whatever might have been the shape

of her judicial machinery, or the forms of procedure. It is the essence of sovereignty, that it shall shape its own fashions, and fashion its own remedies. Virginia, in the section just quoted, seems to have acted upon that conviction. The caveats were to be *tried* and proceeded in, in the *manner* directed by law for future caveats, but must be determined according to the laws in force when the entries were made.

Virginia could not reputably claim to exact of Kentucky, about to assume the attitude of a sovereign independent state, terms harder, or more severe, than she had prescribed to herself, upon her transit from a colonial, to a state government; and what she could not reputably to herself, have exacted, this court surely will not construe her to have exacted.

The rule which she prescribed to herself, in the section last above quoted, is in strict conformity to the law of nature and nations, and to what is understood to be the practice, throughout the civilized world, in like cases. Why should a different rule have been demanded by Virginia, or assented to by Kentucky? Why should the word *laws* in the Virginia rule, mean *only* the *statutes* of the colony under which the rights had accrued, and the same word in the Kentucky rule, mean all the statute laws of Virginia, positive and remedial, the common law of England, the constitution and colonial charters, together with the decisions, usages, &c. of that state?

No good reason is perceived why the last clause of the 3d article of the compact, should be construed to establish different principles, from those established by the use of the like words, in relation to the same kind of subject, and the like situation of parties, in the section above quoted.

So that it would seem that the *laws*, according to which the private rights and interests of lands in Kentucky were to be *determined*, pursuant to the last clause of the 3d article of the compact, were the statute laws of Virginia which created, modified and defined them; those statute laws in which their *validity* and *security* originated—the *very laws* from which they were *derived*; and that those rights were of that inchoate and imperfect character which indicated their need of all the provisions of that article.

But if the interpretation given above, of the words rights and interests of lands, should be thought to be too limited, and they should be construed to mean, grants as well as entries, surveys, &c. of lands, still it is evident that the rights *only*, (of whatever kind they might be,) were solely the subject of stipulation; that it was not the intention of the parties to the compact, that the lands of the proposed state should *forever* be *exempt* from its legislation. This would seem to be evident, not only from the incompatibility of such a *state* of things with the *existence* of the *sovereignty* of the proposed state, but because the common law

afforded its inurements and its inferences only to the possessor of a legal title thereto, and there existed legal titles to but a very small proportion of the lands which had been entered. Five-sevenths at least of all the lands in that district were at that time claimed under inchoate rights, the legal title to which was in the state of Virginia, and would pass to the state of Kentucky, under the 3d article of the compact, in trust for claimants of that description. If rights and interests, were construed to mean lands, it could only be the lands for which grants had been obtained; and under that construction, the inchoate rights that most needed, and could not do without protection, would be left without it, and *needless* protection extended to grants; for no discrimination is made in the article. Besides, the lands could not be said to be derived from the laws of Virginia; but the rights to them were derived from those laws.

Again, it would be questionable, both as to the anglicity and sense of it, to say, that lands should be determined by the laws *now* existing, &c.; but it would be entirely proper so to speak in relation to the rights or title to the land. But the 4th article of the compact would seem to silence all doubt upon this point. By that it would appear that the parties, the moment they had closed the stipulations of the 3d article in relation to the rights and *interests* of lands, passed, by a transition very easy and natural, from the *rights* of the land, to the *land* itself; and in that (4th) article, stipulate that the proposed state shall not *tax* the *lands* of non-residents higher than *those* of residents, &c. and that the *lands* of non-residents shall not be *forfeited* by the proposed state, for a failure to *cultivate* or *improve* them, until six years after the proposed state should have been admitted into the Federal Union. Now there was, at the date of the compact, no law of Virginia, which subjected lands to forfeiture, for a failure to improve or cultivate them. If then the stipulation of the 3d article, that private rights, &c. were to remain secure and valid, under the laws of the proposed state, embraced lands, they would have remained secure, and this provision of the 4th article, was worse than idle. But if the stipulations of the 3d article, related not to the lands, but to the rights thereto only; and if, as seems to be admitted by the strongest implication, the state would have possessed the power immediately upon going into existence, to *tax* and *forfeit* lands, then there was a motive for the restrictions, contained in the 4th article, upon that power. The provisions of that article are evidently *restrictive*, and presuppose the existence of the power, which they purport to restrain. But again, if, according to the opinion of the court, not only the lands, but the rents, profits and issues of them, whether natural or industrial, were secured by the provisions of the 3d article, from the legislative invasion of the pro-

posed state, would it not have been an act of great stupidity, in the parties, to frame and adopt the provisions of the 4th article? Would not that article have been, not only superfluous, but frivolous? And will the court, we beg leave to ask, most respectfully, persist in a construction, which fastens *fatuity* upon two States, and produces an irreconcilable conflict between the 3d and 4th articles of their deliberate compact?

But does not, it may be asked, the power to forfeit the lands for non-cultivation, include the power to inflict lighter penalties for that cause, and to subject the lands to their payment? And may not that penalty be inflicted in any mode which the sovereign may choose to adopt? And can it be said, that to diminish the value of the land in the exaction of the penalty, is forbidden by that very compact, which concedes by stipulation, the right to forfeit the whole? And does it lie in the mouth of any non-resident, who has not during forty years occupied, cultivated, or improved his lands in Kentucky, to say that the state has done him wrong, in subjecting his lands to the payment of the price of the labor innocently and honestly exerted in improving them, when it had the acknowledged right of forfeiting the lands entirely, because of his failure to cultivate and improve them? When the price of that labor exceeds the value of the land, in its unimproved state, then the operation of the law will have been, that he has lost his lands by his own fault; a fault for which it is acknowledged they might have been directly forfeited; and it is not competent, for him to dictate to the state in what manner it shall exercise its forfeiting power, or what disposition it shall make of the lands which it shall choose in any way to forfeit. So that in the worst aspect of the occupying claimant laws of Kentucky, (and the portraiture of them, given in the opinion of the court, is certainly not very flattering,) their operation amounts to no more than the exertion of an acknowledged power, (the power of forfeiting,) would produce. And the operation of the law is not upon his right to the land, whatever that may be; it is upon the land itself. And then the shape of the question is not, whether those laws will permit, or oblige a man to buy *his own* lands, but whether a man, who has stood by in silence, beholding the innocent occupant wearing out his life in improving the lands, for which he also had honestly paid, shall come in, assert claim to the land, and by the *common law* magic, of an anterior date to his parchment, unhouse the occupant, and enjoy the fruits of the labor of his life, without paying therefor any equivalent whatever.

No state that possessed the power of legislation over its soil, could or ought to submit long, to tenures of it, unassociated with cultivation. The desolating effects of the numerous tenures of that sort in Kentucky, have greatly retarded its agricultural advancement, and would, but for the benign effect of its occupying

claimant laws, have thrown it behind its just destinies at least twenty years. That state could not have got along at all without them. They present to delinquent claimants, the mildest, the most mitigated aspect of the exertion of the forfeiting power; and no shape of that power, in relation to the lands of non-resident claimants who have failed to improve the same, is believed to be impactional.

The power to make laws, the power to legislate, is of the essence of sovereignty. It enters essentially into every just definition of sovereign power; because its exercise is indispensably necessary to the associated condition of man. Its necessity results alike from his selfish and social nature. His intimate connexion with, and dependence upon the soil, not only for subsistence, but for the just enjoyment of his social and selfish propensities, brings the soil necessarily under legislative subjection. Hence it would seem to follow, that Kentucky could not become a sovereign state, without possessing legislative power over the soil within her limits; and if she was to become a state, she had a right, under the constitution of the United States, to become a sovereign and independent state, at least so far as that sovereignty and independence could exist, compatibly with that of the United States, as delineated in its constitution. She had a right to that exemption from dependence upon any of the other states, which each of them possessed in relation to the others. This, it is presumed, is what is denominated the independence of the states of the American confederation. She had a right to exercise sovereign power to the same extent in which each of the other states might exercise it; and it was not competent for Virginia to withhold that power from her, in the process of her erection into a state, more than it would have been competent for her to reclaim it by compact, after she had become a state. To maintain equilibrial powers between the states, is presumed to have been among the leading reasons which produced the adoption of that provision in the constitution of the United States, which restrains the states from entering into compacts with each other, and with foreign powers. Instead of giving Virginia a power by construction, to legislate for the soil of Kentucky, or giving her the power of not doing it, (if that phrase may be so applied,) and restraining Kentucky from doing it, it is respectfully contended, that an explicit compact to that effect must have been void, from its intrinsic unfitness. For it is contended, that the power of promoting industry, by securing to its votaries the enjoyment of its fruits, is inherent in sovereignty, and no state can prosper, or even get along, without exercising it. It is not very important who cultivates the soil, A or B; but it is vitally important that the soil should be cultivated. The strongest incentive to the cultivation of the soil, is to be found in conscious proprietorship, in stability of tenure; and government must, by its

laws, give to occupancy that repose, which will inspirit labor, awaken enterprise, and diffuse contentment. This power to legislate over the soil, is essential to that distribution of it, which is most favorable, not only to the comfort, but to the freedom of those who cultivate it. Suppose the doctrine of primogeniture and entails had existed in Virginia at the date of the compact, and that Virginia had, since the erection of Kentucky into a state, abolished those laws; according to the construction given to the third article of the compact, Kentucky must, notwithstanding, continue forever to submit to the pernicious tendency of those laws.

A state must have the power to provide by its laws for the distribution and descent of real property; to regulate the tenures, transfers and testamentary dispositions of it; to protect the occupancy, and encourage the cultivation of it; in short, to suit its legislation over it, to the ever-varying condition of those who constitute the state; for states have their vicissitudes, though not in regular, yet often in rapid succession. Hence the provision in all, or in almost all the American governments, for the annual session of their legislatures. But the annual session of the Kentucky legislature will turn out an expensive illusion, if the construction given to the 3d article of the compact is to be the criterion of its power. If that is the *sound*, and is to be the *permanent* construction of that article, permit us to ask, most respectfully, if the fact will not turn out to be, that Virginia has smuggled Kentucky into the Union, in the character of an independent state, while, in *reality*, she retained her as a *colony*? For that power that cannot legislate in relation to the soil which it occupies, must be the vassal of the power that gives law to the soil. And what is the difference between giving at once to a country, the law which shall regulate the tenure and occupancy of its soil in all time to come, and legislating for it, as occasion may require, *through* all time to come? In either case, the legislating power is the sovereign, and the people who occupy the soil which is the subject of legislation, must be vassal; and of the two modes of receiving law, that would be best received, which was successive, suitable, and seasonable. Still, in either case, it cannot be disguised, that they are not free; that they are vassals.

If, in the compact between Virginia and Kentucky, there had been a stipulation, that all personal rights, and rights of personal property, should remain valid and secure under the laws of the proposed state, and be determined by the laws then existing in Virginia, could Kentucky, (we beg leave to ask,) have gone into existence as an independent state, under such additional restrictions upon her legislative faculties? Or could she, without a total perversion of terms, have been denominated a state at all? And why might not such a stipulation have been inserted in the compact? Not, certainly, because the 3d article, as it now stands,

imports all of restriction, that could have been sustained by Kentucky, compatibly with her existence as a sovereign state: and still more certainly, not because of any unwillingness in Kentucky to make the concession; for if she was willing to surrender to Virginia the sovereignty of the soil, (and that is the construction given to the import of the 3d article of the compact,) she could have no motive to retain the faculty of legislation as to personalties and personal rights; for it is an axiom in politics, that those who control the soil, control with it those who occupy it; and the retention of the latter, upon the supposition that the former had been surrendered, would have been expensive in its exercise, and unavailing in its effect.

As this compact purports to be a contract between two sovereign states, we are constrained, in construing it, to regard those principles of acknowledged political orthodoxy, by which the just powers of states are ascertained and defined; those powers which enter into the essence of sovereignty, and are essential to the enjoyment of freedom. Those principles have, therefore, been referred to with the same freedom, that reference is made to the established rules of law, in the exposition of ordinary contracts. Their application to cases of this description, is believed to be as appropriate, as the application of the rules of the municipal law to ordinary contracts.

But let us look at some of the practical results of the construction given in the opinion, to the 3d article of the compact; for if it must produce results to which the parties cannot be supposed to have assented, at the time they formed it, the construction cannot be correct; because its correctness can only consist in its *consonance* with the *intention* of the parties.

The great principle established in the opinion, is, that any law of Kentucky, which renders lands in that state, which were derived from the laws of Virginia, less valuable or less secure, in relation to the rents, profits and issues thereof, is impactional, and of course null and void. Now, three-fourths of the lands in Kentucky were appropriated, at least three times over, under the laws of Virginia.

Lands in Virginia, could not, under the laws existing in that state at the date of the compact, be sold under execution for the payments of debts. Lands have always, under the laws of Kentucky, been subjected to sale, under execution, for the payment of the debts of their proprietors. The private *rights* and *interests* of such lands, as have been thus sold for the payment of debts, cannot, according to the opinion of the court, have remained as *valid* and *secure* under the laws of Kentucky, as they were under the laws of Virginia, at the date of the compact; and therefore, under the opinion, those laws of Kentucky were void, and the sales made under their authority, were invalid, and conferred no

title upon the purchaser, and of course are subject to reclamation by the original owners and their heirs.

At the date of the compact, the crime of horse-stealing, was punished, under the laws of Virginia, with death. The state of Kentucky, very soon after it believed it possessed the power to do so, mitigated the rigor of the Virginia code in that instance, among many others, and commuted confinement in the jail and penitentiary house, for capital punishment; whereby culprits of that description became entitled, under the constitution of that state, to be bailed. The recognizance, under a law of Kentucky to that effect, contained the condition, that if the culprit should fail to appear and answer to the charge, the penal amount thereof should be levied of his lands, &c. Here also it may be said, that the lands of the culprit and of his securities, are rendered less secure than they would have been under the Virginia code.

The state of Kentucky has, it is believed, in some cases of a penal character, which were punishable under the laws of Virginia at the date of the compact, with stripes or imprisonment, substituted for the punishment inflicted by those laws on the body of the culprit, an exaction upon his purse, and subjected *his lands* to the payment of the penalty. Here also it may be said, that the rights and interests of the lands of the offender are rendered less secure than they were under the Virginia code, and that the law producing that effect is impactional and void.

It is the settled sentiment of the statesmen and jurists of Virginia, that lands in that state, and the rights thereof, are greatly more secure under the restricted exercise of the elective franchise, which prevailed, at the date of the compact, in that state, than they would be, if unqualified suffrage were permitted. Upon this principle, so much of the constitution of Kentucky as proclaims to its citizens the unqualified right of suffrage, may be declared void, because the rights of land are thereby rendered less secure, than they were at the date of the compact.

It may be said, that the principle settled in the opinion was not intended to apply to the laws above enumerated. May it not, we ask most respectfully, whatever may have been the intention of the court, be extended and applied to those laws; and must they not, (in the maintenance of consistency,) whenever they are drawn in question, be declared to be void, and all proceedings had under them, to be invalid? If such was not the intention of the court, is not that circumstance an additional reason for the re-consideration of the opinion?

The principle settled in the opinion, would seem not only to extend to, and embrace the laws of Kentucky, to which reference has been made, but to bestow a *squint* of fearful *presage* upon the remedial laws enacted by that state in relation to the realty, or to real actions. For, says the opinion, "the objection to a law, on

the ground of its impairing the obligation of a contract, can never depend upon the *extent* of the *change the law effects in it*; any deviation from its *terms*, by *postponing* or *accelerating* the period of performance which it prescribes, imposing conditions not prescribed in the contract, or dispensing with the performance of those which are, *however minute* or *apparently immaterial* in their effect upon the contract of the parties, *impairs* its obligation."

May we not be permitted to ask, if this is not holding a very tight rein over the exercise of sovereign power by a state? Can it be supposed, that a state would consent to possess, and to exercise sovereign power, under the requisition of such precision and exactness—under such a curb?

Can the State of Kentucky enact any laws in relation to the lands within its limits? Or, must the laws which existed in Virginia at the date of the compact, in relation to those lands; to the rights and interests thereof; to the remedies for the violation of those rights and interests, forever remain the criterion of rights and remedies in relation to the realty, in the State of Kentucky? And must any laws which the legislature of that state may enact in relation thereto, depend, for their validity, upon *their exact and precise* conformity to the Virginia laws upon the same subject? Does not the opinion answer, emphatically, *yes*; and declare that any deviation therefrom, *however minute and apparently immaterial in its effect*, must be fatal to the laws; and that those laws, in relation to lands, which were in force in Virginia at the date of the compact, were embraced by it, form an essential part of it, and must be conformed to by Kentucky, in all its enactments concerning lands? But let us consult the words of the opinion farther, upon this subject. It says, "*If the remedy be qualified and restrained by conditions of any kind*, the right of the owner may indeed subsist and be acknowledged; but *it is impaired and rendered insecure, according to the nature and extent of the restrictions.*" What is the import of this quotation from the opinion, but, in effect, a repeal, by anticipation, of the remedial laws of Kentucky, to the extent in which they differ from the remedial laws in force in Virginia at the date of the compact, in relation to real actions? And so far as they *conform exactly* to those laws, it was certainly idle to enact them. The limitation laws of that state must, under the opinion of the court, fall with its occupying claimant laws. Kentucky cannot, by the exertion of any sovereign power she possesses, or rather, she does not possess the power to prescribe, by the enactment of laws, a limit to those controversies for the soil, within her jurisdiction, wherewith she has been heretofore greatly afflicted, and with which her best prospects in time to come, are much darkened. In short, do not all the parts of that opinion converge in the establishment of the sentiment, that the code of Virginia, that code which was in force in that state on the 18th day of De-

December 1789, must be, and continue to be, in all time to come, the code of Kentucky, in relation, not only to the lands within her limits, and the rights thereto, of whatever kind, but in relation to the remedies also? And we are willing to admit that all these doctrines flow naturally enough from the premises laid down by the court. But when it is considered that those premises were obtained by construction; that in arriving at them, Kentucky will have to be considered as having been so eager for a *quasi state posture*, as to have agreed to renounce *forever* (for permission to occupy that attitude,) the great and essential attributes of state sovereignty; to renounce *forever* all jurisdiction over the territory and soil within her limits, and to have agreed, that the relation of her citizens to the soil upon which they were to subsist, should be *forever* regulated by an *alien* code, which could neither be varied nor improved, by the *charities* of the power that framed it, nor by the necessities of the one that adopted it; and which might, indeed, be renounced by the former, upon a conviction of its inadequacy to its original purposes, and to the varied, advanced, and advancing condition of the society for whose benefit it was originally framed and adopted; but which must nevertheless *forever* remain obligatory upon the people of Kentucky. That is, that the stream must still continue to flow, after its *source* has *dried up*. Even the poet's "*Labitur et semper labetur, per omne volubile ævum,*" was predicated upon the unfailing sources of the stream. It is respectfully repeated, that when the court again reflects upon the premises which they have obtained by the construction which they have given to the 3d article of the compact, and upon the conclusions to which those premises lead; they will (it is ardently hoped,) pause and enquire of themselves, whether those conclusions are in conformity with the nature of the subject-matter of that compact, and with the condition and *intention* of the parties who framed it?

And after all, what is this thing called construction, more than to supply by *presumption* the absence of a clearly expressed intention by the parties, (say) to a contract? And how can what the parties meant, be presumed, unless the condition of the parties, and the subject-matter of the contract be known? and when that is known, how is presumption employed? Why, simply in inferring that *sentiment*, or state of *will*, which reasonable men in all respects similarly situated, under the influence of the sleepless vigilance of self-love, would have formed or entertained. The sentiment, or state of will, to which this process leads, has the stamp of intrinsic fitness upon it; a fitness that maintains its character, whether viewed in relation to consequences or causes. It fits alike, the presumed motives of the parties to the contract, the subject-matter of the contract, and the results flowing from the contract.

Can it be supposed, or presumed, reasonably, that the District of Kentucky, engaged at the date of the compact, in its tenth

year's war with the savages, that occupied the wilderness, on its southern, western and northern frontier, itself almost a wilderness; a war which had not intermitted during all that time, and had been unusually sanguinary, with its settlements sparse, and scattered, weak from the paucity and dispersed state of its population, not knowing certainly when the war would terminate, or with what further ravages its progress might be marked, situated from three to five hundred miles from any efficient source of assistance, constrained to rely upon its own strength and resources, its territory encumbered and cursed with a triple layer of adversary claims: Can it be supposed, that a district thus situated, conscious that it needed the strength of increased population, not only to sustain it in the war in which it was engaged, but to reduce its wilderness land to a state of cultivation, and thereby furnish the resources necessary to sustain the new government, would, in the very process of its formation, surrender the power so indispensably necessary, if not to its very existence, certainly to its well-being and prosperity? It needed the power to furnish incentives to emigration and to industry; to silence as speedily as it could be justly done, the litigation in relation to its lands, which threatened its repose. Can it be presumed, it is again asked, to have consented to part with those powers, which, if they were not essential to its sovereignty, were indispensably so to its condition?

It remained, when the Indians should have been conquered, to subdue the forests of the wilderness. Can it be reasonably supposed, that the people of that District, after winning the country by conquest, under circumstances of privation, hardship and gloom, of which a *true narrative* would, on account of their peculiarity, seem more like romance, than history; a gloom not indeed uninterrupted, but when interrupted, brightened only by the gleams of their own chivalric daring, and valorous achievement, that such a people would consent to clear up grounds, erect houses, build barns, plant orchards and make meadows, for the sole convenience of those who had *latent rights*, and who, during the war, and while the improvements were making, had remained as *latent* as their *rights*?

The conduct of the State of Kentucky, whatever may have been said of it by the *misguided* or the *unprincipled*, has been high-minded, liberal and indulgent towards non-resident claimants of lands in that state. She indulged them from year to year, for six years, to make their surveys, and from year to year, for twenty years, to return plats and certificates of survey to the Register's office. She repealed her laws against champerty so early as the year 1793, in the mistaken view of furnishing to them increased facilities of disposing of their claims, and in all her laws for the appropriation of vacant lands, she declared that every survey or

patent which might be obtained under those laws, should be absolutely void, so far as it should interfere with a survey made in virtue of a right derived from Virginia.

She knew the extent of the obligation imposed on her by the compact, and she most scrupulously avoided impairing it; and as evidence of her good faith in this matter, the State of Virginia has never complained; the *parties* to the compact gave it the same interpretation. So late as the year 1822, the 3d article of the compact received, in the report of a very enlightened committee of that state, in relation to the claims of its officers and soldiers to bounty lands in Kentucky, an exposition different from that given in the opinion, and in accordance, in the main, with that herein urged. The court are respectfully referred to that report, which, though it is not believed to be correct in every particular, is certainly a very able performance, and exhibits, in relation to its object, a masterly view of the subject. The power of Kentucky to enact limitation laws, is very clearly and expressly admitted in that report. May it not then be hoped that the court will reconsider their opinion, and adopt that construction of the compact, which speaks peace to the family altars and firesides of half a million of souls, under which alone, the people of the state of Kentucky *can live* and continue to be as happy as their industry and virtue shall entitle them to be; and as free as in the character of citizens of an independent and sovereign state they have a right to be.

Nor are the undersigned without the hope, that the court will find in the circumstance that the opinion was formed by three only of the seven Judges, an additional motive to review the case. The cause which subjected a case involving principles so vitally interesting to the state of Kentucky, to a decision by a minority of the Judges, is greatly to be regretted, and furnishes, it is respectfully suggested, in the opinion of the undersigned, a strong reason for reiterated deliberation. Besides, when the court reflects that the case in which the opinion has been pronounced, was a case substantially, though perhaps not formally, settled, they will be convinced that no injury can result from the delay which a reconsideration may produce. Of the four Judges who were on the bench when the opinion was given, one dissented. Had one of the three, instead of concurring therein, concurred with the dissentient judge, the posture of things in Kentucky would not have been disturbed, so that in effect, the rights of half a million of people, are to be afflictingly changed and controlled by the opinion of *one single individual* member of the court.

All which is most respectfully submitted, by

JOHN ROWAN,
HENRY CLAY.

Ordered, That said message and documents be laid on the table, and that the public printers forthwith print 500 copies thereof, for the use of the Senate.

The following bills were reported, to wit:

By Mr. McAfee—A bill for the benefit of Joshua Barbee and the devisees of John Barbee, deceased.

By Mr. Miller—A bill to alter the State Road through Hardin county.

And by Mr. Lyon—A bill to establish the county of Graves.

Which were severally read the first time, and ordered to be read a second time.

The Senate received messages from the House of Representatives, announcing the passage of bills of the following titles: An act to alter the times of the sitting of the Estill circuit court, and an act to authorise the sale of the real estate of the infant children of Andrew Hanna.

Which were severally read the first time. The rule being dispensed with, they were read a second time, and the former a third time.

Resolved. That the former bill do pass, and that Mr. Howard inform the House of Representatives thereof.

The latter bill was committed to the committee for courts of justice.

Engrossed bills, to wit: A bill to increase the powers of the trustees of the town of Hopkinsville; a bill for the benefit of the children of Hannah Porter, and a bill authorising a lottery for the benefit of Hopkinsville Lodge, No. 37, were severally read a third time.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act to increase the powers of the trustees of the town of Hopkinsville;" "an act for the benefit of the children of Hannah Porter," and "an act authorising a lottery for the benefit of Hopkinsville Lodge, No. 37."

Ordered, That Mr. Ewing inform the House of Representatives thereof, and request their concurrence.

The Senate received from the Governor, by Mr. Waggener, a message in writing, containing certain military nominations.

A bill for the relief of certain aliens, was read a second time, and ordered to be engrossed and read a third time.

The Senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Gorin in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Gorin reported, that the committee had, according to order, had under consideration the report of the select committee to whom was referred the petition of Alexander Lackey, contesting the election of

Thomas D. Owings, and had gone through the same without amendment.

Which report was taken up and read as follows, to wit:

The select committee to whom was referred the petition of Alexander Lackey, contesting the election of Thomas D. Owings, a senator returned to serve in the senate of this commonwealth for the 31st senatorial district, composed of the counties of Bath, Floyd, Morgan, Pike and parts of Lawrence and Perry, have had the same under consideration, and beg leave to make the following report:

We find the *notice* given by the said Alexander Lackey to the said Thomas D. Owings, to be defective, in not being under the *hand and seal* of the said Lackey, as required by the statute. We also find that the notice for taking, and the certificate of the depositions taken in the case, are also defective and irregular, not being in conformity to the act of assembly in such cases made and provided; and that sufficient evidence does not appear, as to the disposition of the votes in the county of Lawrence, which was constituted out of a part of Greenup county, since the last apportionment, which was not originally in the senatorial district. * Yet, taking all the evidence as it is, thus irregularly certified, it appears to your committee, that the said Thomas D. Owings did not receive the greatest number of qualified votes in the district; and viewing this contest, not only as doubtful, but of considerable difficulty, your committee have come to the conclusion, that it is reasonable that the good people of said district should have the privilege of again making a full and fair expression of their *will*, in a *new election*: We, therefore, are of opinion, that the notice and proceedings are too defective and irregular, to authorise the said Alexander Lackey to take his seat, in the place of the said Thomas D. Owings; and, on the other hand, that the said Thomas D. Owings has not been constitutionally elected.

We, therefore, recommend, that the seat of the said Thomas D. Owings be declared vacated, and that a writ of election issue to said district, to be held on the first Monday in December next, to fill the vacancy occasioned thereby.

They also beg leave to report all the papers and depositions which were before them, in order that the Senate may have a full view of the whole subject, agreeable to the act of assembly in relation to contested elections.

Mr. Howard then moved the following amendment:

Resolved, That a writ of election issue, agreeably to the act of 1819, establishing the 31st senatorial district.

Mr. Ewing then moved the following, as a substitute therefor, to wit:

Resolved, That the electors in the 31st senatorial district shall vote, in their several counties, for senator, as now directed by law.

The question was then taken on the adoption of the substitute, and it was resolved in the negative—Yeas 15, nays 15; the Lieutenant-Governor voting in the negative.

The yeas and nays being required thereon by Messrs. Barbee and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Bowman, Duncan, Ewing, Faulkner, Flournoy, Forsythe, Gorin, Hickman, Smith and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Carneal, Dawson, Denny, Howard, Lyon, M'Afee, Miller, Morehead, Roper, Rudd, J. Ward, White, Wickliff and Williams.

The amendment proposed by Mr. Howard was then rejected, and the report concurred in.

James Davidson, Esq. senator from the counties of Lincoln and Rockcastle, appeared and took his seat.

The Senate received a message from the House of Representatives, announcing the passage of a bill from the Senate, entitled "an act allowing certain Judges further time to remove into their respective districts."

And then the Senate adjourned.

SATURDAY, NOVEMBER 8, 1823.

The Senate assembled.

John J. Marshall, Esq. senator from the counties of Franklin and Owen, appeared and took his seat.

The Speaker laid before the Senate a report from the Trustees of the Deaf and Dumb Asylum, which was taken up and read as follows, to wit:

FRANKFORT, November 8, 1823.

Sir:

I have the honor herewith to present, by order of the Board of Trustees of the Kentucky Institution for the tuition of the Deaf and Dumb, their annual report, and through you, to the honorable body over which you preside.

I am, Sir, very respectfully,
Your obedient servant,

DAVID G. COWAN, *Chairman*
Com. Trustees.

The Hon. WILLIAM T. BARRY,
Speaker of the Senate.

KENTUCKY INSTITUTION FOR THE TUITION OF THE }
DEAF AND DUMB, DANVILLE, NOV. 3, 1823. }

IN obedience to "an act to endow an Asylum for the tuition of the Deaf and Dumb," the Trustees respectfully report:

Institutions of the kind created by the legislature, being of modern date in the world, and there being none nearer than the Atlantic cities, the board was well aware that they were not in possession of the requisite information, to enable them at once to commence the duties incident to their appointment. They, therefore, met at an early day after the adjournment of the general assembly, and adopted such measures as seemed most likely, and best calculated to afford the desired information, and at as early a day as practicable, to put the institution into operation. A correspondence was accordingly opened with all the institutions of the kind in the United States, the object of which was, to obtain information of the best mode of conducting and managing them. Circulars were addressed to the different members of the General Assembly, requesting information of the number of Deaf and Dumb persons, in their several counties; their age, sex and condition in life, and the probable number, that would be sent to the Institution for instruction. A statement herewith submitted, will show the information obtained upon the subject. Knowing that the number of persons, acquainted with the proper method of instructing mutes, was very limited, the Board engaged a Mr. David C. Irvin, as instructor; deeming him capable of giving the instruction necessary, in the first few months, until time could be had to procure a teacher from one of the Eastern Institutions, in every respect competent to the task. They regret to be obliged to state, that after some weeks' trial of Mr. Irvin, circumstances occurred, which made it the duty of the Trustees forthwith to discharge him.

From that time, until the 6th ultimo, the pupils received instruction from the Rev. John R. Kerr, and although he was not experienced in teaching mutes, yet the progress of the pupils exceeded our most sanguine expectations. Since that time, Mr. DeWitt Clinton Mitchell, from the New-York Asylum, a gentleman experienced in the art, has filled the office of principal teacher. Among the most important objects to be attained in the establishment of an institution for the Deaf and Dumb, is the procurement of persons of unexceptionable character and qualifications, to fill the stations of superintendent and matron. In this part of their duty, the Board are happy to have it in their power to say, they have succeeded to their entire satisfaction, by the acceptance of the Rev. John R. Kerr, and his Lady, of those stations. Mr. Kerr also assists in giving instruction in school. We therefore think, that the humane and benevolent views of the Legislature which gave birth to the institution, are now realized in its successful operation.

The novelty of the experiment to communicate useful knowledge to persons deaf and dumb, and thereby restore them to their proper rank in the scale of beings, has, by many persons in the country, been considered a doubtful one, and by some believed impracticable. But facts remove all doubts and disbelief upon the subject. Many persons have visited the institution and no person has left it doubting, nor is it believed, without being interested for its prosperity.

So far as the Board are in possession of information, this institution has met with the universal approbation of those who understand its nature. It has attracted the attention of persons out of our own state, as several applications to admit pupils have been made from the states of Ohio, Tennessee and Georgia.

It is expected that in the course of the next six months, the number of pupils will be much increased. The statements herewith submitted, will exhibit the funds of the institution, and the several expenditures, and on what account; also, a list of the pupils, &c. We would remark, that the funds placed at the disposal of the Board, did not, in their opinion, warrant the commencement of the buildings necessary for such an institution; and buildings answering the purpose for some time to come, have been taken on rent. It is however believed, that the most suitable site for an Asylum, is not in the centre of a town, but somewhat retired from the bustle of business; and so soon as the Board find themselves sufficiently in funds, it is contemplated to acquire a lot of ground more spacious than can be obtained in the heart of a town, whereon to erect their buildings. In this, the Board have in view not only the health of the pupils, but hope, at some period, to have it in their power to employ a portion of their time, (and particularly of the indigent,) in acquiring a knowledge of such things as may enable them when discharged from the institution, to procure a subsistence. We conceive the education of indigent pupils who have learned to read and write, and have not been taught any branch of industry, by which to obtain for themselves a support in life, as incomplete. Our means at present, admit only of giving this kind of instruction to our female pupils, who are taught the use of the needle, housewifery, &c. We hope the period may not be distant, when through the bounty of the Legislature of our country, and the donations of the charitable, we shall be enabled to carry this part of the plan into complete operation.

At this time, we respectfully suggest to the Legislature, that the sum now allowed by law, for the support of indigent pupils, is less than it can be furnished for at the present prices of the means of subsistence. We would, therefore, respectfully solicit such an increase of the allowance, as the Legislature may think proper. That the legislature may be more minutely acquainted with the institution and its management, the trustees respectfully solicit a

personal examination by a committee of each house of the General Assembly.

A copy of the rules adopted for the government of the institution, is herewith submitted, by which it will be seen that to the trustees residing in town, has been committed the immediate care of superintending it, a sub-committee of whom are in the habit of making daily visits. The like is done by the committee of ladies appointed under our charter. The pupils are all in good health, and no instance is recollected of any having been sick, except slightly of prevailing epidemics. They are cheerful, well disposed to each other, and easily governed; and as new ideas are unfolded to them, appear greatly delighted, and anxious to learn. They are much attached to the superintendent, matron and teacher, and to those visitors who call frequently, and who appear interested for them.

The board of trustees owe their acknowledgments to the teachers of all the institutions for instructing the deaf and dumb, with whom they have corresponded, for their promptness in giving the desired information; but they feel under particular obligations to Dr. Samuel Akerly, secretary of the New-York institution, for the many services he has rendered them.

The statement of expences incurred, accompanying this report, together with some estimate of the probable expenditures for the ensuing year, will afford the best information we can give the legislature on this subject. Should a committee be appointed, as we trust there will, it will be in our power to go more into detail. Before we conclude this report, we beg leave to express our earnest hope and expectation, that the same spirit of philanthropy which induced your predecessors to extend their beneficence to this unfortunate portion of our fellow-creatures, will animate the present, and each succeeding legislature.

All which is respectfully submitted,

By order of the Board.

B. H. PERKINS,	} Superintending Committee.
D. G. COWAN,	
JAMES BARBOUR,	
WM. MILLER,	
EPH'M. M'DOWELL,	
JER'H. FISHER,	

KENTUCKY INSTITUTION FOR THE TUITION OF THE DEAF AND DUMB.

Trustees.—John Boyle, chairman; James Birney, treasurer; William Owsley, Thomas Montgomery, Samuel M'Kee, James Barbour, Thomas Cleland, Samuel K. Nelson, David G. Cowan, Ephraim M'Dowell, Joseph M'Dowell, William Craig, Jeremiah Fisher, John Green, Edward Worthington, Robert B. M'Affee,

Benjamin H. Perkins, William Miller, John S. Higgins. James Harlan, secretary of the board.

Officers.—Rev. John R. Kerr, superintendent; Frances Kerr, matron; De Witt Clinton Mitchell, principal teacher.

Physicians.—Joseph Weisiger and Albin G. Smith.

Committee of superintendence.—Benjamin H. Perkins, James Barbour, Ephraim M'Dowell, David G. Cowan, William Miller and Jeremiah Fisher.

Committee of Ladies.—Mrs. Clemens, Mrs. Youce, Mrs. Finley, Mrs. Rochester, Mrs. Whealan, Mrs. Caldwell, Mrs. Akin, Mrs. Cocke, Mrs. Moore, Mrs. Henderson, Mrs. Bell and Mrs. Reed.

PUPILS.

NAMES.	Age.	Admitted	Residence.	Remarks.
		1823.		
Jabez Gaddie,	16	April 10	Green county,	} An orphan, and unable to pay for board or tuition.
Eveline Sherrill,	12		do.	
Lucy Barbee,	24		do.	Do. do.
Rebecca Machen,	27	May 20	Simpson county,	Pays all charges.
Wm. Morehead,	13		Lincoln county,	Do. do.
Martha Bailey,	21	June 12	Woodford county,	Indigent, and unable to pay.
Moses Lewellin,	15	July 1	Shelby county,	Pays all charges.
Edith Lewellin,	13		do.	Orphan, and indigent.
John Goggin,	21	July 9	Madison county,	Do. do.
William Grissom,	17		Adair county,	Pays all charges.
Barney M'Mahon,	12	July 23	Jefferson county,	Do. do.
John Withers,	21	August 20	Lincoln county,	Entirely indigent.
John Hoke,	25	Oct. 27	Jefferson county,	Pays all charges.
Thos. Hoagland,	30	Nov. 3	Fayette county,	Do. do.

Deaf and dumb persons supposed to be in the State, from 130 to 150, about one-third of whom are in indigent circumstances.—The calculation in Europe, of the proportion of deaf and dumb to other persons, is one for 2,000 souls; in the United States, it is estimated lower.

RULES.

Resolved, That the members of the board resident in the town of Danville, be arranged into *Monthly Committees*; who shall each, successively, have the superintendence and charge of the Asylum. It shall be the duty of the Committees, to make all regulations needful and necessary for the good order of the Asylum, and make report to each stated meeting of the Board, and at such other times as they may deem necessary.

Resolved further, That the following rules be adopted for the government of the monthly committees, the ladies' committee and superintendent, matron and teachers:

1. That the mode of treatment of the pupils of this institution, and of their instruction, require lenity and kindness of an exemplary nature; and that corporal punishment ought never to be re-

sorted to, but in extreme cases, and then only by the authority and consent of the monthly committee.

II. That every pupil who shall be admitted into this institution, shall be initiated under the direction of the monthly committee; and that no pupil shall be considered as regularly entered, until he or she shall have been, for a time not exceeding 20 days, in the institution, on trial; and shall also have given bond, with competent security, if required, for the payment of the tuition and expenses, according to the rules and regulations of this institution.

III. That the monthly committee shall superintend the school, and direct all that may be necessary for the comfort and advancement of the scholars, and the general prosperity and respectability of the institution. Respectable persons may be permitted to visit the Asylum, when introduced by a trustee, the superintendent, matron, or any member of the committee of ladies.

IV. That the monthly committee, shall, from time to time, according to the season, prescribe the hours of meeting and dismissal from school. When in school, and during the hours of instruction, the pupils are under the government of the teacher or teachers; at other times and places, the superintendent and matron, are expected to have the charge and care of them.

V. If a scholar shall persist in playing truant, or his parents or guardians detain him from school without a proper excuse, the superintendent and teacher shall report the same to the monthly committee, who shall thereupon make such order as the case may require.

VI. No parent or guardian shall interfere with the government of a child in the school; but in case of dissatisfaction, they may refer their complaints in writing, to the monthly committee, who shall act thereon as the case may require.

VII. That in all cases requiring further rules for the government of the institution, not hereby provided for, the monthly committee shall have power to act, subject to the supervision and determination of the board, to be reported at the expiration of their term, with whatever relates to their transactions.

Kentucky Institution for the tuition of the Deaf and Dumb.

DEBIT.

January, 1823—To cash received from the treasury, \$3,000 00
1823.

CREDIT.

April 11—By cash paid for board of D. C. Irvine, before the commencement of the school,	20 00
May 22—Paid for same, after school commenced,	5 00
Paid D. C. Irvine, for services as teacher,	40 00
Jan. 11—Cash paid for books, stationery, &c.	
purchased at New-York,	146 55
Paid for carriage of do.	9 00

Paid for two large desks, sundry benches, and one large black board, painting, &c.	23 50
Paid for stationary, &c. for indigent pupils,	6 00
Paid for printer's bill,	8 00
Paid for postage,	23 58
Paid for Mr. Mitchell's expences from New-York to Danville, as per contract,	128 00
Mr. Mitchell's salary, up to 3d Nov. 1823,	76 92
House-rent, up to 3d November,	146 69
Amount of Mr. Kerr's account for boarding indigent pupils, to 3d November,	250 75
Amount of his salary, up to 3d Nov.	173 74
Amount of his account for wood furnished school room,	7 50—1,065 23
Balance on hand,	\$ 1,934 77
Tuition fees due from pupils who pay, up to 3d November 1823,	90 93

Amount on hand, \$ 2,025 70

In addition to the above, a list is herewith presented, exhibiting, as far as the board know with certainty, the donations made to the Institution, amounting to \$970. The board have been informed, that other donations have been subscribed to the Institution; but the amount is not known.

"We severally promise to pay to the Trustees of the Asylum for the tuition of the Deaf and Dumb, the sums annexed to our respective names; to be paid in three annual payments, from 1st January 1823."

John Green,	100	William Miller,	50
James Birney,	100	Charles Henderson,	50
Ephraim M'Dowell,	100	Richard D. Crutchfield,	30
David G. Cowan,	50	Thomas Gray,	30
William Craig,	50	John Fleece, jun.	20
James Harlan,	10	Duff Green,	20
James Barbour,	50	Benjamin H. Perkins,	50
Joshua Barbee,	100	David Bell,	50
John B. Camden,	10	William Akin,	50
Jer. Chamberlain,	50		
			\$ 970

Probable amount of expences the ensuing year.

For salary of teacher and assistant teacher, including board,	1,600
Amount which it is supposed will be required to support indigent pupils,	,500

THE SENATE.

69

Rent of house and ground,	200
Incidental expences, fuel, stationary, &c.	100
	\$ 3,400
Deduct, for probable amount which will be received from the treasury, for the support of indigent pupils,	1,500
Probable amount which will be received from pupils who will pay,	600—2,100
	\$ 1,300
Present amount of funds on hand,	2,025 70
One third of subscriptions, which will fall due the 1st of January 1824,	323 33
	\$ 2,349 03

Whereupon Mr. M'Afee moved the following resolution, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky,
That the report of the Trustees of the Deaf and Dumb Asylum, and the accompanying documents, be referred to a joint committee of four from the Senate and eight from the House of Representatives, with power to report by bill or otherwise.

The rule being dispensed with, it was taken up and adopted.

Ordered, That Mr. M'Afee inform the House of Representatives thereof, and request their concurrence.

Messrs. M'Afee, Roper, Barbee and Marshall were appointed a committee on the part of the Senate, pursuant to said resolution.

The Senate received from the Governor, by Mr. Waggener, a message in writing. The rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent, Joseph R. Given, to be commissioned Sheriff of the county of Caldwell, in the place of David Osborn, resigned; to continue in office for and during the balance of the term for which the said Osborn was commissioned.

JOHN ADAIR.

November 8th, 1823.

Resolved, That the Senate advise and consent to said appointment, and that Messrs. Lyon and Dawson inform the Governor thereof.

The Senate received a message from the House of Representatives, announcing the passage of a bill from the Senate, entitled "an act for the benefit of the children of Hannah Porter;" and that they had passed bills of the following titles: An act for the

relief of the executrix and executor of William Gaunt, deceased; an act for the benefit of the heirs of Robert M'Cormick, and an act for the benefit of George Mattingly.

Which bills were severally read the first time, and ordered to be read a second time.

The rule being dispensed with, the second bill was read a second time, and committed to the committee for courts of justice.

An engrossed bill for the relief of certain aliens, was read a third time, and committed to Messrs. Ewing, Carneal and Marshall. And after some time, Mr. Ewing reported the same with amendments; which were concurred in, and the bill ordered to be engrossed and read again.

Mr. Williams, from the joint committee of enrolments, reported that they had examined enrolled bills of the following titles, to wit: "An act allowing certain Judges further time to remove into their respective districts," and "an act to alter the times of the sitting of the Estill circuit court;" and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor. And after some time, Mr. Williams reported that they had performed that duty.

A bill to establish the county of Graves, and a bill for the benefit of Joshua Barbee and the devisees of John Barbee, deceased, were severally read a second time, and ordered to be engrossed and read a third time.

The rule being dispensed with, and the former bill having been engrossed, it was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act to establish the county of Graves."

Ordered, That Mr. Lyon inform the House of Representatives thereof, and request their concurrence.

The following bills were reported, to wit:

By Mr. White—A bill to incorporate the Republican Circulating Library Company.

By Mr. Barrett—A bill to amend the several acts concerning the town of Cynthiana.

And by Mr. Lyon—A bill for the benefit of the heirs of David Davidson, deceased.

Which were severally read the first time, and ordered to be read a second time.

The rule being dispensed with, the two former were read a second time, and ordered to be engrossed and read a third time; and the first, having been engrossed, was read a third time.

Resolved, That said bill do pass, and that the title be, "an act to incorporate the Republican Circulating Library Company."

Ordered, That Mr. White inform the House of Representatives thereof, and request their concurrence.

A bill to alter the State Road through Hardin county, was read a second time, and committed to Messrs. Barbee, Miller and Wickliff.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Ewing—A bill to amend the laws relative to civil proceedings.

And on the motion of Mr. Dawson—A bill for the benefit of Elisha Lyming.

Messrs. Ewing, C. H. Allen and Denny were appointed a committee to prepare and bring in the former; and Messrs. Dawson, M'Afee and Wickliff, the latter.

Mr. C. Allan read and laid on the table a joint resolution relative to the apportionment of the next representation.

The message from the Governor, making certain nominations, was taken up and read as follows, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour and their residence within the bounds of their respective commands, viz.

Stephen Mullens, major of the 21st regiment Kentucky militia, vice Joseph Wingate, removed.

Robert Barnett, brigadier general of the 12th brigade, vice William Ewing, refused to accept.

JOHN ADAIR.

November 7th, 1823.

Resolved, That the Senate advise and consent to the appointment of the former; and the latter was laid on the table.

Ordered, That Messrs. Rudd and Wickliff inform the Governor thereof.

The Speaker laid before the Senate a letter from the President of the Bank of the Commonwealth, covering the annual report and documents; which was taken up and read as follows, to wit:

BANK OF THE COMMONWEALTH OF KENTUCKY, }
November 8th, 1823. }

Dear Sir:

I have the honor to transmit herewith, such a report of the proceedings and situation of this Bank, as is required by the 13th section of the act of the 29th of November 1820; which report you will please to lay before the honorable body over which you preside.

I have the honor to be, with respect,

J. J. CRITTENDEN.

The Hon. WILLIAM T. BARRY,
Speaker of the Senate.

BANK OF THE COMMONWEALTH, Nov. 6, 1823.

To the Members of the Senate and House of Representatives.

I have the honor to report to the General Assembly, that in pursuance to the provisions of their Act of the 5th of December 1822, there has been cancelled by burning, in the course of the present year, (\$573,035 25,) five-hundred and seventy-three thousand and thirty-five dollars and twenty-five cents, of the notes of this bank. Owing to the failure of the Princeton and Louisville branches, to furnish estimates of the amounts received by them upon calls and voluntary payments, between the 1st of July and 1st of October last, and our consequent inability to ascertain with precision the sum which ought, according to law, to have been burned, on the first monday of the present month; it will probably be found that the amount of paper burned on that day, is not equal, by a few thousand dollars, to the sum which ought to have been cancelled and destroyed. The estimate from the Louisville branch has since been received; but that from Princeton is still wanting.

If the decided measures adopted by the last legislature for the reduction of our paper currency, and if the actual cancellation and destruction of so large an amount of the notes of this bank, have not had all the good effects, or produced that enhancement of the value of its paper, which might have been anticipated, it cannot be doubted, that they have prevented a greater depreciation, and that if the same measures or others of a like tendency, are persevered in, they must at no distant period, restore the credit of the bank, and improve the value of its paper.

The Princeton branch has furnished us with a list of its debtors, but has failed to make a report of its situation on the 1st of October last, and the Louisville branch has also failed in reporting its situation on that day, and in furnishing a list of debtors. These reports have probably been delayed by some accident, and will be communicated to the legislature as soon as received. The situation of this bank and all its other branches, will be ascertained by a reference to the reports and tables that are herewith transmitted. In consequence of our failure to receive the reports of the two branches above-mentioned, they have not been embraced in the general statement of the situation of the Bank, which accompanies this communication. It was thought better to wait the receipt of their reports, than to attempt any partial or conjectural statement of their situation. When these reports shall reach the legislature, they will then have a full view of the situation of the whole institution.

There yet remains, in this Bank, an inconsiderable amount of notes, of the smaller denominations, which were prepared for the branches, but have not been applied for. The total amount of

notes heretofore issued and payable by the bank, is (\$2,925,945, 93.) two millions, nine-hundred and twenty-five thousand, nine-hundred and forty-five dollars, and ninety-three cents; and after deducting therefrom, the amount cancelled by burning, and the amount now in bank, exclusive of deposits, there will remain in circulation, as appears by the accompanying statement, (\$2,295, 129 85) two millions, two hundred and ninety-five thousand, one-hundred and twenty-nine dollars, and eighty-five cents; and this last mentioned sum, will no doubt be found subject to some further, but inconsiderable deduction, when the reports from the Louisville and Princeton branches are received.

Upon a general review, it appears, that exclusive of all expenses, the whole interest or profit accruing to the bank, from the commencement of its operations up to the 1st of July, 1822, (being a period of between fourteen and fifteen months,) amounted to the sum of (\$140,633 66) one hundred and forty-thousand, six-hundred and thirty-eight dollars, and sixty-six cents; and that after deducting therefrom, the appropriations made by the legislature to the literary fund, and to other objects, there remained due to the treasury, (\$61,248 34) sixty-one thousand, two hundred and forty-eight dollars, and thirty-four cents. It also appears that the amount in like manner accruing from the 1st of July 1822, to the 1st of July 1823, and subject to the like deductions, was (\$112,527 33) one hundred and twelve thousand, five hundred and twenty-seven dollars, and thirty-three cents; and that the balance thereof due to the treasury on the last mentioned day, was (\$46,403 07) forty-six thousand, four hundred and three dollars, and seven cents.

The mode which has been finally adopted by the Directory for the management of the literary fund, is somewhat variant from that indicated in my last report. The orders of the board of directors, in relation to that subject, are herewith transmitted, and it is only necessary to add that the fund is now distributed and managed in conformity to those orders.

In the general regulation of the bank, no material change or alteration has been made. It is my duty, perhaps, to remark, that the greatest difficulty likely to be experienced, in the management of such an institution, is to keep alive in those who are charged with its direction, an active and regular attention to its concerns. The state alone is immediately interested in the fate of the bank; and without the impulse of private interest, individuals the most upright, and well-intentioned, are apt to grow weary and indifferent in the performance of troublesome and unprofitable duties; and from this sort of lassitude and negligence, whenever it shall prevail to any considerable extent among the managers of the bank, none but the most unfavourable or ruinous consequences can be expected. In some of its departments, it is feared, that

there has been already an abatement of that animated and regular attention to its concerns, which the public interest requires.

In the hope that it might be attended with some good consequences, and might have the effect of rousing and quickening the attention and diligence of the branches, wherever such excitement was necessary, the directors of this bank ordered a general visitation of them to be made by the principal cashier, and during the course of the last summer, that duty was performed by him, in relation to all the branches, (except that at Louisville,) in a manner very satisfactory to the Directory, and it may be hoped, useful to the institution. But the best and most efficacious remedy for the evils to be apprehended from inattention or negligence, or mismanagement of any sort, is to be found in the wisdom and discretion of the legislature, exercised in the careful selection of the individuals, to whom it confides the high and important trust of managing and directing the affairs of the bank.

I have the honor to be,

With great respect, &c.

J. J. CRITTENDEN.

At a meeting of the Board of Directors, of the Bank of the Commonwealth of Kentucky, 21st. February, 1823,

Ordered, That in the books of this Bank, and each of its branches, an account shall be opened with the Literary Fund.

Ordered, That one half the net profits of this institution, which had accrued in this bank, and each of its branches, on the 1st day of July, 1822, shall be transferred to the credit of the Literary Fund.

Ordered, That on the 1st day of July, in each year, one half the net profits of this bank and its branches, which had accrued during the preceding year, shall be transferred to the credit of the Literary Fund.

Ordered, That on the first day of July, in each year, there shall be added to the Literary Fund, six per cent on the amount thereof, as it existed on the first day of the preceding July, or on so much thereof, as may not have been withdrawn for the use of schools, as interest thereon, which shall constitute a part of the principal thereof.

Ordered, That one half the net profits of each branch of this bank, shall remain in the several branches where they have accrued, or may hereafter accrue; which branches may proceed to loan the same on good security.

Extract from the minutes,

EDMUND H. TAYLOR, Clerk.

[ See Statement on the opposite page.]

And then the Senate adjourned.

[SEN

[To face page 74.]

Of the Louisville and Princeton, from which no

CASH ON HAND					
	Specie	Eastern Notes.	Bk. Com. & branches	U. S. notes.	B. Ky. & branches
Principal	349 25	610	151,621 43	50	1,478
Br. in Harb	242 72	200	30,900		
Lexi			83,987 35		
Win 0,500			53,024 43		4,450
Mou			11,478 91		385
Flem			29,491 81		141
Falm			25,848 13		100
Som		45	7,634 93		172 75
Gree	11 56		15,242		
Hart	19 61		4,439		613
Bow	12 48		1,579 12		1,256
	D, 135 62	855	417,247 11	50	8,600 75

DR.		CR.	
To Stoc	-	4,135 62	
Lite	-	855	
Notranches,	417,247 11		
Dis	50		
Indies,	8,600 75	430,888	48
Am	-	1,952,469	90
	-	103,677	70
	-	3,231	41
	-	72,363	94
st,)	-	2,939	96

A STATEMENT

[To face page 74.]

Of the situation of the Bank of the Commonwealth of Kentucky, on the 1st of October 1823, (omitting the Branches in Louisville and Princeton, from which no reports for the last quarter have been received.)

	Stock.	Literary Fund.	Notes payable.	Discounts	Individual depositors.	Due to other Banks.	Notes discounted.	Notes in suit.	Real Estate.	Due from other banks.	General expenses.	CASH ON HAND.				
												Specie	Eastern Notes.	B'k. Com. & branches	U. S. notes.	B. Ky. & branches
Principal Bank, Br. in Harrodsburg,	120,024 63	9,527 48	264,168 63	4,110 95	32,678 44	55,944 91	291,884	10,056		30,077 95	328 41	349 25	610	151,621 43	50	1,478
Lexington,		12,708 94	267,466 25	2,936 27	8,651 71	3,251 69	227,441 33	29,892	1,750	4,644 07	34 74	242 72	200	30,900		
Winchester,		13,234 99	211,425	3,482 10	103,532 20		223,302			21,354 65	1,030 29			83,987 35		
Mount Sterling,		14,628 20	268,908 87	2,780 58	22,700 02		237,783 96	9,472 33		690 44	96 51	3,500		53,024 43		4,450
Flemingsburg,		3,339 06	92,407 75	1,981 03	826 91	2,248 14	85,922 97	2,853 39			162 62			11,478 91		385
Falmouth,		9,223 30	168,269 25	2,188 52	4,432 04	200	145,011	2,492 48		6,488 01	748 81			29,491 81		141
Somerset,		7,551 07	162,202	2,150 40	1,200 01		141,733	3,375 40	1,025	483 43	38 52			25,848 13		100
Greensburg,		6,328 37	130,475 50	2,035 50	750 12		122,938 52	2,396 90		6,522 39	79		45	7,634 93		172 75
Hartford,		10,189 69	184,508	2,546 08	2,338 86	7,243 81	176,142 86	14,644	456 41		329 61	11 56		15,242		
Bowlinggreen,		5,429 97	96,749 75	1,014 51	2,517 83	16,181	112,433	2,039		2,303	41 45	19 61		4,439		618
		10,990 54	189,271 50	1,065 87	4,468 65	10,834 50	187,877 26	25,956 20				12 48		1,579 12		1,256
DOLLARS,	120,024 63	103,351 61	2,035,852 50	26,291 81	184,096 75	95,554 05	1,952,469 90	103,677 76	3,231 41	72,363 94	2,939 96	4,135 62	855	417,247 11	50	8,600 75

RECAPITULATION.

Dr.						RECAPITULATION.						Cr.
To Stock,	-	-	-	-	-	120,024	63	By cash on hand, viz. Specie,	-	-	4,135	62
Literary Fund,	-	-	-	-	-	103,351	61	Eastern Notes,	-	-	855	
Notes payable,	-	-	-	-	-	2,035,852	50	Notes Bank of the Commonw'th & branches,			417,247	11
Discounts, (since 1st July last,)	-	-	-	-	-	26,291	81	Notes Bank of the United States,			50	
Individual depositors,	-	-	-	-	-	184,096	79	Notes Bank of Kentucky and branches,			8,600	75—430,888
Amount due to other Banks,	-	-	-	-	-	95,954	05	Notes discounted,	-	-	-	1,952,469
								Notes in suit,	-	-	-	103,677
								Real estate,	-	-	-	3,231
								Amount due from other Banks,	-	-	-	72,363
								General expences, (since 1st July last,)	-	-	-	2,939
						\$2,565,571	39				\$2,565,571	39

The debts in the above table, stated to be "*due to other Banks,*" and "*due from other Banks,*" with the exception of one or two small items, consist entirely of balances in the Principal Bank and Branches, due, one to another, in account current; and when the reports of the Louisville and Princeton Branches come to be taken into the calculation, these two accounts will be nearly balanced.

Net profits the current year, ending June 30th, 1823,	-	-	-	-	-	-	-
Of this sum there is appropriated, as interest on the Literary Fund, as it existed on the 1st July 1822, and carried to the credit of that fund,						112,527	33
						<u>4910</u>	<u>13</u>

After deducting the interest from the above amount of profits, one half of the residue is also carried to the credit of the Literary Fund, amounting to	4,219 13
	54,154 08

The balance of profits is appropriated as follows, viz.	To the credit of the Treasurer,	-	-	-	-	54,154 08
	Ditto	Southern College,	-	-	-	46,403 07
			-	-	-	1,194 29

	Ditto	Southern College,	-	-	-	1,194	29
	Ditto	Centre College,	-	-	-	1,377	
	Ditto	Transylvania University,	-	-	-	5,179	76--112,527 33

Whole amount of Notes issued, (including the Branches in Louisville and Princeton.)	-	-	-	5,179 76	112,527 33
Whole amount cancelled by burning, up to 3d November 1823,	-	-	-	2,925,945	93

Deduct Notes of the Harrodsburg Branch, included in the above amount of Notes issued, but which are omitted to be entered on the books of that Branch,	1,884
--	-------

Ditto, Winchester Branch, which were overcharged by the Principal Bank,	-	-	-	-	-	1,084
Amount remaining on hand on the 1st October 1823, after deducting a sum necessary to satisfy all demands then existing	-	-	-	-	-	190

against the Bank, and also the amount of notes cancelled on the 3d November 1823, 55,706 83—630,816 08

Leaving in circulation, including the amount due to individual depositors, and exclusive of any estimate to be deducted for the branches in Louisville and Princeton.

Attest, O. G. WAGGENER, *Cashier.*

And then the Senate adjourned.

MONDAY, NOVEMBER 10, 1823.

The Senate assembled.

The Lieutenant-Governor being absent, William B. Blackburn was elected Speaker of the Senate *pro tem.* and was conducted to the chair by Messrs. Ewing and McAfee.

Thomas Towles, Esq. the senator from Henderson, Hopkins and Union counties, appeared and took his seat.

Mr. Dawson presented a petition from Balaam Thompson, stating that, from casualty, certain papers had been lost, which would have enabled him to perfect his legal title to a certain tract of land, and praying that a law may pass, vesting the title in him; which was received, read and referred to the committee for courts of justice.

The Senate received a message from the House of Representatives, announcing the passage of a bill from the Senate, entitled "an act to legalize the proceedings of the Hickman county court;" that they had concurred in the resolution appointing a joint committee in relation to the report from the Asylum of the Deaf and Dumb, and had appointed a committee on their part; and that they had passed bills of the following titles: An act to amend the law respecting the emancipation of slaves, and an act for the relief of the widow and heirs of Thomas Lewis, deceased.

The said bills were severally read the first time, and ordered to be read a second time.

The rule was dispensed with, the latter bill read a second time, and committed to the committee for courts of justice.

Mr. Ewing, from the committee appointed for that purpose, reported a bill to amend the laws relative to civil proceedings; which was received and read the first time, and ordered to be read a second time.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Howard—1. A bill to enforce the obligation of contracts.

On the motion of Mr. Beauchamp—2. A bill to provide for the improvement and cultivation of certain lands in this commonwealth.

On the motion of Mr. Dawson—3. A bill concerning Kentucky land warrants which may have been lost; and 4. a bill to authorise the executors of Brumfield Long to convey certain lands.

And on the motion of Mr. Miller—5. A bill to amend the penal laws of this commonwealth.

Messrs. Howard, Marshall, Denny and Roper were appointed a committee to prepare and bring in the first; Messrs. Beauchamp,

C. Allan, Denny and Ewing, the second; Messrs. Dawson, M'Afee, Davidson and Worthington, the third; Messrs. Dawson, Gorin, C. Allan and Bowman, the fourth; and Messrs. Miller, Forsythe, Beauchamp and Faulkner, the fifth.

Mr. Barbee, from the joint committee of enrolments, reported that the committee had examined an enrolled bill entitled "an act for the benefit of the children of Hannah Porter," and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that the Speaker of that House had signed the said bill.

Whereupon the Speaker of the Senate affixed his signature thereto, and it was delivered to the joint committee, to be presented to the Governor. And after a short time, Mr. Barbee reported that they had performed that duty.

Mr. Lyon offered the following resolution, to wit:

Resolved, That a committee of public lands be appointed, to consist of five members, who shall meet and adjourn from day to day, and take into consideration all matters relating to the public lands in this commonwealth, and such other matters as shall, from time to time, be referred to them, and report their proceedings, with their opinion thereupon, to the Senate, by bill or otherwise; and the said committee shall have power to send for persons, papers and records, for their information.

Which was twice read and concurred in.

Messrs. Lyon, C. Allan, Worthington, Ewing and M'Afee were then appointed a committee to act on the subject.

The Senate received a message from the House of Representatives, announcing that they had passed a bill entitled "an act to authorise the Editor of the American Sentinel to insert certain advertisements."

The bill was read the first time, and ordered to be read a second time; and the rule being dispensed with, it was read the second and third times.

Resolved, That the said bill pass, and that the Clerk inform the House of Representatives thereof.

Mr. Howard offered the following resolution, to wit:

Resolved, That a committee, consisting of five members, be raised, to take into consideration the amount of debt due the commonwealth for the sale of its vacant lands lying south of Green river, as well as of the amount of debt due for the sale of her lands lying within the Tellico grant, and report thereon by bill or otherwise.

Which being seconded, and twice read, Mr. Ewing moved an amendment, to make the proposition read thus:

Resolved, That a committee, consisting of five members, be raised, to take into consideration the amount of debt due the commonwealth for the sale of vacant lands.

And the question being taken thereon, it was resolved in the affirmative—Yeas 20. nays 9.

The yeas and nays being required thereon by Messrs. Howard and Gorin, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barrett, Beauchamp, Carneal, Davidson, Dawson, Ewing, Forsythe, Gorin, Lyon, M'Affee, Marshall, Miller, Morehead, Roper, Rudd, Towles, J. Ward and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Barbee, Denny, Duncan, Faulkner, Howard, Wickliff and Williams.

Mr. Carneal then proposed to lay the matter on the table until the first day of June next; and the question being taken thereon, it was resolved in the negative—Yeas 5, nays 20.

The yeas and nays being required thereon by Messrs. Howard and Gorin, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Carneal, Dawson, Duncan and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Barbee, Barrett, Beauchamp, Davidson, Denny, Ewing, Faulkner, Forsythe, Gorin, Howard, Lyon, M'Affee, Marshall, Miller, Morehead, Roper, Rudd, J. Ward and Wickliff.

The resolution was then adopted, and Messrs. Howard, Wickliff, Faulkner, C. Allan and Towles were appointed a committee to act thereon.

The bill concerning county courts, was taken up, amended at the clerk's table, and ordered to be engrossed and read a third time.

A bill for the relief of the heirs of David Davidson, was read the second time, amended at the clerk's table, and committed to Messrs. M'Affee, Lyon, Ewing and Roper.

The Senate received a message from the Governor, by Mr. Secretary Monroe, announcing that he had approved and signed the bill entitled "an act for the benefit of the children of Hannah Porter."

Ordered, That the Clerk inform the House of Representatives thereof.

Engrossed bills, to wit: A bill for the relief of certain aliens; a bill for the benefit of Joshua Barbee and the devisees of John Barbee, deceased; a bill to amend the several acts concerning the town of Cynthia, and a bill to incorporate the Republican Circulating Library Company, were severally read the third time, and the blanks therein filled up.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act for the relief of certain aliens;" "an act for the benefit of Joshua Barbee and the devisees of John Barbee, deceased;" "an act to amend the several acts concerning the town of Cynthia," and "an act to incorporate the Republican Circulating Library Company."

Ordered, That Mr. Ewing carry the first, the Clerk the second and fourth, and Mr. Barrett the third bill to the House of Representatives, and request their concurrence.

A bill from the House of Representatives, entitled "an act for the benefit of George Mattingly," and a bill entitled "an act for the relief of the executrix and executor of William Gaunt, dec'd." were severally read the second time, and ordered to be read the third time."

The Senate took up the nomination of Robert Barnett, as brigadier general of the 12th brigade.

Resolved, That the Senate advise and consent to the said nomination.

Ordered, That Messrs. Duncan and Wickliff inform the Governor thereof.

Mr. Miller moved for leave to bring in a bill for taking the sense of the good people of this commonwealth as to the necessity of calling a convention; which being stated, was, on the motion of Mr. C. Allan, postponed until Wednesday next.

And then the Senate adjourned.

TUESDAY, NOVEMBER 11, 1823.

The Senate assembled.

The Senate received a message from the Governor, by Mr. Waggener, containing the nomination of Drury W. Poor, as lieutenant colonel of the 91st regiment; and announcing, that, on this day, the Governor had signed an enrolled bill, which originated in the Senate, entitled "an act allowing certain Judges further time to remove into their respective districts."

Mr. Dawson, from the committee appointed for that purpose, presented a bill to authorise the executors of Brumfield Long to convey certain lands; which was received and read the first time; and the rule being dispensed with, it was read the second time, and ordered to be engrossed and read a third time.

Mr. M'Affee, from the joint committee appointed on the report from the Asylum for the education of the Deaf and Dumb, offered the following preamble and resolution:

The joint committee to whom was referred the annual report of the Trustees of the Asylum for the education of the Deaf and Dumb, having taken the same under their consideration, and viewing it as an institution of great importance to the State of Kentucky, as well as to the Western Country in general, and believing that an accurate knowledge of the methods of communicating information to Mutes, would be better understood by a personal inspection of a committee of both branches of the Legislature, beg leave, before they recommend ultimate measures, to report in part, the following resolution:

Resolved by the General Assembly, That a joint committee of two from the Senate and four from the House of Representatives, be appointed to visit the institution, and make report of the state and condition of the same, and such other matters as to said committee may seem interesting.

ROBERT B. M'AFEE, *Senate.*

J. D. BRECKINRIDGE, *H. Rep.*

Which being received, was read; and the rule being dispensed with, was concurred in.

Ordered, That Mr. M'Afee inform the House of Representatives thereof.

On the motion of Mr. Wickliff, leave was granted to bring in a bill to repeal an act approved the 14th of February 1820, to appropriate fines and forfeitures for the purpose of promoting education; and Messrs. Wickliff, Beauchamp and Gorin were appointed a committee to prepare and bring in the same.

A bill to amend the laws relative to civil proceedings, was read the second time, and committed to Messrs. Beauchamp, Ewing, Denny and Bowman.

A bill from the House of Representatives, entitled "an act to amend the law respecting the emancipation of slaves," was read the second time; and the rule being dispensed with, it was read a third time.

Resolved, That the said bill do pass, and that the Clerk inform the House of Representatives thereof.

A bill from the House of Representatives, entitled "an act for the benefit of George Mattingly," and a bill entitled "an act for the relief of the executrix and executor of William Gaunt, deceased," and an engrossed bill entitled "an act concerning county courts," were severally read the third time.

Resolved, That the two former bills do pass, and that the Clerk inform the House of Representatives thereof.

The latter bill was re-committed to Messrs. Beauchamp, C. Allan, Denny and M'Afee.

And then the Senate adjourned.

WEDNESDAY, NOVEMBER 12, 1823.

The Senate assembled.

Mr. Ewing presented the petition of sundry citizens of Hopkins county, praying to be added to Christian county.

Mr. Marshall presented the petition of the President and Directors of the Frankfort and Shelbyville Turnpike Company, praying that their powers may be extended, and for a loan from the Bank of the Commonwealth.

Mr. Lyon presented the petition of Charles Brandon, praying that he may have the pre-emptive right to a quarter section of land below the Tennessee river, upon his paying the minimum price.

Which were severally read, and referred, the two former to the committee of propositions and grievances, and the latter to the committee of public lands.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Blackburn—A bill better to secure the right of property to married women and their children.

And on the motion of Mr. Towles—A bill to guard and protect the estates of wards, infant heirs and devisees.

Messrs. Blackburn, M'Affee, C. Allan, Beauchamp and Towles were appointed a committee to prepare and bring in the former, and Messrs. Towles, Flournoy and Marshall, the latter.

Mr. Blackburn, from the select committee appointed for that purpose, reported a bill to revive and continue in force part of the act concerning the Bank of Kentucky and the Bank of the Commonwealth of Kentucky, approved December 5, 1822; which was read the first time, and ordered to be read a second time.

The resolution relative to the ratio, was taken up, amended, and read as follows, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky, That in apportioning the representation for the next four years, the ratio shall be so fixed as to reduce the number of representatives and senators.

Mr. Gorin moved to lay the resolution on the table until the first day of June next; and the question being taken thereon, it was resolved in the affirmative—Yeas 20, nays 11.

The yeas and nays being required thereon by Messrs. Hickman and Dawson, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barbee, Beauchamp, Bowman, Carneal, Dawson, Denny, Duncan, Ewing, Forsythe, Gorin, Lyon, M'Affee, Marshall, Morehead, Rudd, Smith, White, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Barrett, Blackburn, Davidson, Faulkner, Flournoy, Hickman, Howard, Miller, Towles and Williams.

The Senate received several messages from the House of Representatives, announcing that they had received official information that the Governor had signed an enrolled bill, which originated in that House, changing the time of holding the Estill circuit court; and had concurred in a resolution from the Senate, for appointing a joint committee to visit the Asylum for the education of the Deaf and Dumb; and the passage of a bill entitled "an act for the relief of Agnes Pye Usher."

The said bill was read the first time, and ordered to be read a second time.

Whereupon Messrs. Roper and Towles were appointed a committee on the part of the Senate, pursuant to said joint resolution.

An engrossed bill entitled "an act to authorise the executors of Brumfield Long to convey certain lands," was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act to authorise the executors of Brumfield Long to convey certain lands."

Ordered, That Mr. Dawson inform the House of Representatives thereof, and request their concurrence.

Mr. Williams, from the joint committee of enrolments, reported that the committee had examined enrolled bills and an enrolled resolution, of the following titles, to wit: An act to legalize the proceedings of the Hickman county court; an act to authorise the Editor of the American Sentinel to insert certain advertisements, and a resolution appointing a joint committee upon the report from the Asylum for the education of the Deaf and Dumb; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills and resolution.

Whereupon the Speaker signed said bills and resolution, and they were delivered to the joint committee, to be laid before the Governor. And after some time, Mr. Williams, from said committee, reported that they had performed that duty.

The Senate received a message, by Mr. Secretary Monroe, announcing that the Governor did, on this day, approve and sign an enrolled bill and resolution, which originated in the Senate, of the following titles, to wit: An act to legalize the proceedings of the Hickman county court, and a resolution referring the report of the Trustees of the Deaf and Dumb Asylum to a joint committee.

Ordered, That the Clerk inform the House of Representatives thereof.

And then the Senate adjourned.

THURSDAY, NOVEMBER 13, 1823.

The Senate assembled.

Mr. John Cowan, senator from Pulaski county, appeared and took his seat.

The Senate received a message from the Governor, by Mr. Waggener; and the rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent, Charles Ward, to be commissioned Sheriff of the county of Mason, in the place of

James Chambers, deceased; to continue in office for and during the balance of the term for which the said Chambers was commissioned.

Also, James Patton, to be commissioned Sheriff of the county of Harrison, in the place of John Berry, who has resigned; to continue in office for and during the balance of the term for which said Berry was commissioned.

JOHN ADAIR.

November 13th, 1823.

Resolved, That the Senate advise and consent to said appointments; and that Messrs. Roper and Barrett inform the Governor thereof.

Mr. Marshall presented the petition of Elijah Green, praying a donation of a small tract of land in Franklin county, which lately belonged to a certain John Vanness, who died without heirs; which was read and referred to the committee of propositions and grievances.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined enrolled bills of the following titles, to wit: An act for the relief of the executrix and executor of William Gaunt, deceased; an act for the benefit of George Mattingly, and an act to amend the law respecting the emancipation of slaves; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills.

Whereupon the Speaker of the Senate signed the same, and they were delivered to the joint committee of enrolments, to be laid before the Governor. And after some time, Mr. Barbee, from said committee, reported that they had performed that duty.

Mr. Barbee, from the select committee to whom was referred "a bill to alter the State Road through Hardin county," reported an amendment in lieu of the bill, which was concurred in; and the bill, having been engrossed, was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act to alter the State Road leading from Frankfort to Bowlinggreen."

Ordered, That Mr. Wickliff inform the House of Representatives thereof, and request their concurrence.

A bill from the House of Representatives, entitled "an act for the relief of Agnes Pye Usher," was read a second time; and the rule being dispensed with, it was read a third time.

Resolved, That the said bill do pass, and that the Clerk inform the House of Representatives thereof.

On the motion of Mr. Carneal,

Ordered, That the committee for courts of justice be discharged from the further consideration of the petition of Joseph Cummins and others. And leave was given to withdraw the same.

A bill to revive and continue in force part of the act concerning the Bank of Kentucky and the Bank of the Commonwealth of Kentucky, approved December 5, 1822, was read a second time, and committed to a committee of the whole house on the state of the commonwealth.

Ordered, That the public printers forthwith print 150 copies of said bill, for the use of the Legislature.

On the motion of Mr. Flournoy, leave was granted to bring in a bill to authorise a lottery for the purpose of planting and raising a Botanic Garden; and Messrs. Flournoy, Marshall, M'Afee and Bowman were appointed a committee to prepare and bring in the same.

And then the Senate adjourned.

FRIDAY, NOVEMBER 14, 1823.

The Senate assembled.

Mr. William Owens, senator from the counties of Adair and Casey, appeared and took his seat.

The Speaker laid before the Senate the following communications from the superintendents for repairing the Penitentiary, to wit:

To the honorable the Senate and House of Representatives of the Commonwealth of Kentucky.

The undersigned, superintendents appointed by an act of assembly, entitled "an act to enlarge the Penitentiary," &c. approved on the 10th day of December 1822, respectfully report:

That in compliance with the requisitions of the act aforesaid, they have caused a stone wall to be erected, enclosing, in addition to the ground included within the old walls, one acre adjoining thereto, on the east and south sides of the Penitentiary: That the stone-work of the wall is completed, except the pointing thereof, which, on account of the advanced season, has been postponed until the next spring; and bonds with security satisfactory to the superintendents, for pointing the outside, also for pointing or plastering the inside of the wall, when required, have been given by the undertakers, who have been paid therefor. They also state, that in consequence of the great depreciation of the paper currency of this State, the contracts entered into with them, for the erection of the said wall, were, in their opinion, the most advantageous for the public, which, at the time, could have been obtained; and they flatter themselves with the belief, that the stone-work, when examined, will be found executed in a substantial and satisfactory manner. For a statement of the moneys, and of the materials from the Penitentiary used by them in the erection of

the wall, they beg leave to refer to their general account, herewith submitted; and they are prepared to exhibit vouchers for the several items of expenditure, and also to give such explanations as may be required of them.

No progress has, as yet, been made in erecting the solitary cells contemplated by the act aforesaid. The funds appropriated were inadequate to that object; and had it been otherwise, until the new wall was completed, the work could not have been commenced, without affording to the convicts great facilities in effecting their escape. But as the new wall renders the old wall useless, it is believed it may with propriety be taken down, and that it will furnish stone and brick in sufficient quantity for the erection of the solitary cells and such other buildings as may be necessary to complete the Penitentiary establishment within the wall; also, that the work may be chiefly executed by the convicts, under the direction of the Keeper, at an expence not greatly exceeding what will be required for the purchase of the plank, scantling and shingles.

We have the honor to be, with due consideration,
Your obedient servants,

J. BROWN,
JAMES WIGHT,
CHARLES JULIAN.

Frankfort, Nov. 13, 1823.

To the honorable the General Assembly of the State of Kentucky.

GENTLEMEN:

In the communication which will be presented to you by the superintendents for building the penitentiary wall, no notice is taken of the top or capping of wood, which is at this time putting on said wall. Your superintendents, as such, had no authority to vest money in that way. But, on the completion of part of said wall, there prevailed a common opinion, that it would be much injured by the winter rains and frost, perhaps to the amount of what half the capping would cost, if it remained exposed during the winter. Confident of that fact myself, and feeling a willingness to protect the public property from injury, which had cost so much, I gave my assent to the putting the cap on said wall, agreeably to the proposals hereunto annexed. Mr. Wight, one of the superintendents, being an undertaker, and the other superintendent being out of the State, if there is any objection to the construction of the cap on the wall, the censure will fall on me. Hence, I will give my reasons for approving the plan. The projecting eaves will cover the intended coat of plaster to be put on the inside of the wall, and will contribute much to the safe-keeping of the convicts. The shingling will be a tight and durable

roof, easily repaired. The intended platform for the guard to walk the wall, will lessen the expence of guards, and is in conformity with all the public works of the kind in the Eastern States and in Europe. It has been said, that no guard can be got to walk the wall, as it will be so cold and so hot. It may be so; for now a-days, if a man is jostled while in the enjoyment of vagrant liberty, he bellows out it is contrary to the constitution. As to compensation to those who have furnished materials and performed the work, it rests with the General Assembly to say what and how they are to be paid.

With the most profound respect,

Gentlemen, your most obedient,

CHARLES JULIAN.

To the Superintendents for the building of the Penitentiary Wall.

GENTLEMEN:

As it appears that a cap or covering is necessary for the wall built around the Penitentiary, we do hereby bind ourselves to do the carpenter's work necessary in capping the said wall with shingles, &c. agreeably to your plan, leaving the price to be fixed by a committee which may be appointed by the Legislature to examine the same, or in any other way that the Legislature may direct, and trust to the Legislature for compensation. Given under our hands and seals, this 19th day of September 1823.

AMOS STOUT, [Seal.]

JOHN WOODS, [Seal.]

WM. B. RATLIFF, [Seal.]

JAMES WIGHT, [Seal.]

The State of Kentucky in account with the Commissioners for building the Penitentiary Wall, &c.

DEBTOR.

For cash, penitentiary articles and convicts' labor paid and furnished Blanton and Evans, undertakers, for 2,768 perches and 20 feet of wall, built at \$3 37 1-2 per perch, per contract,	9,344 25
For cash, penitentiary articles and convicts' labor paid and furnished Richard Taylor, undertaker, for 1,376 1-2 perches wall built at \$3 37 1-2 per perch,	4,645 63
For penitentiary articles furnished James Wight, for making gates, and 280lb. of grating purchased of him,	130
Cash paid Baltzell for drawing papers,	1 50
Cash paid Henry Harper for locust sills for gate,	35
Cash paid James Wight for horse-hire in going to Woodford about title to ground, &c.	5

Cash paid James Scofield for gate timber, &c.	139 56
Cash paid Richard Taylor for picketting timber,	81 20
Cash paid Amos Kendall, printer,	4
Cash paid J. H. Holeman, ditto,	2
Cash paid Henry Spence for measuring wall,	1 50
For hooks and other iron-work about the gates,	69 50
Error for overcharge to Blanton and Evans,	2
Balance on hand, in Commonwealth's Bank,	362 04

\$ 14,823 23

CREDITOR.

By cash appropriated by act of assembly for building the penitentiary wall,	12,000
By articles got from the penitentiary by Blanton and Evans, and Richard Taylor,	1,743 46
By articles got from the penitentiary by James Wight, for his work on gates and for grating,	130
Convicts' labor performed for Blanton and Evans, and Richard Taylor,	304 02
Old wall sold to Blanton and Evans, and Richard Taylor, by commissioners,	71 25
By articles got by the superintendents out of the penitentiary, for gates, &c.	69 50

\$ 14,823 23

By balance of money on hand, subject to the order of the Legislature,

\$ 362 04

Mr. Smith, from the committee of religion, made the following report, to wit:

The committee of religion have, according to order, had under consideration a petition to them referred, and have come to the following resolution thereupon, to wit:

Resolved, That the petition of Sylvanus Lockwood, praying that he may be divorced from his wife, Polly Lockwood, *is reasonable*.

Which was twice read and concurred in.

Mr. Beauchamp, from the select committee to whom was referred an engrossed bill concerning county courts, reported the same with amendments; which were concurred in, and the bill ordered to be re-engrossed and read again.

The Senate received a message from the House of Representatives, announcing the passage of bills and a resolution of the following titles: An act to amend and extend the law authorising a turnpike on the road leading from the counties of Madison and Rockcastle to the Goose Creek salt-works; an act to authorise the sale of the real estate of John Spence, deceased; an act to regu-

late the town of Nicholasville, and a resolution to appoint joint committees to examine the different offices, and the Bank of Kentucky and the Bank of the Commonwealth.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined an enrolled resolution appointing a joint committee to visit the Asylum for the education of the Deaf and Dumb, and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said resolution.

Whereupon the Speaker of the Senate signed the same, and it was delivered to the joint committee, to be laid before the Governor; and after some time, Mr. Barbee reported that they had performed that duty.

The following bills were reported, to wit:

By Mr. Roper—1. A bill to authorise the Judge of the Mason circuit court to hold a special term.

By Mr. Dawson—2. A bill for the benefit of Lydia Smith.

By Mr. Blackburn—3. A bill better to secure the right of property to married women and their children.

And by Mr. Ewing—4. A bill for the divorce of Sylvanus Lockwood.

Which were severally read the first time, and ordered to be read a second time.

The rule being dispensed with, the first and third bills were read a second time, and the first a third time, (having been engrossed.)

Resolved, That the first bill do pass, and that the title be, "an act to authorise the Judge of the Mason circuit court to hold a special term."

Ordered, That Mr. Roper inform the House of Representatives thereof, and request their concurrence.

The third bill was committed to a committee of the whole house on the state of the commonwealth.

Ordered, That the public printers forthwith print 150 copies of said bill, for the use of the Legislature.

On the motion of Mr. Ewing,

Ordered, That the committee of propositions and grievances be discharged from the further consideration of the petitions of Elijah Veach and William Durrington; and that they be referred to the committee of public lands.

Mr. Flournoy presented the petition of the Lexington Presbyterian Congregation, praying that a law may be passed confirming all leases heretofore made by the trustees, and that the law of 1814, in relation to religious societies, may be amended; which was read, and referred to the committee for courts of justice.

And then the Senate adjourned.

SATURDAY, NOVEMBER 15, 1823.

The Senate assembled.

The Senate received a message from the Governor, by Mr. Secretary Monroe, announcing that he did, on yesterday, approve and sign an enrolled resolution for appointing a joint committee to visit the Asylum for the education of the Deaf and Dumb.

Ordered, That the Clerk inform the House of Representatives thereof.

The Senate received several messages from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act for the benefit of Absalom Russell, and an act for the better regulation of the Southern College of Kentucky and the Harrodsburg Seminary.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice have, according to order, had under consideration sundry petitions and a bill to them referred, and have come to the following resolutions thereupon, to wit:

Resolved, That the petition of Balaam Thompson, representing that he purchased of his mother a tract of land, and took an assignment therefor, which has been lost, and a patent has issued to her since her death, and praying that a law may be passed to transfer the title to him, *be rejected*.

Resolved, That the petition of the heirs of Patrick Shields, deceased, praying that the adult heirs may be empowered to compromise certain land claims for the infant heirs, *be rejected*.

Resolved, That the petition of John Anderson, one of the assistant Judges of Hickman county, praying a compensation for travelling to and from the seat of justice, *is reasonable*.

Resolved, That a bill from the House of Representatives, entitled "an act to authorise the sale of the real estate of the infant children of Andrew Hanna," *ought not to pass*.

Which being twice read, was concurred.

And the question being taken on reading the said bill a third time, it was resolved in the negative; and so the said bill was rejected.

Ordered, That the Clerk inform the House of Representatives thereof.

Ordered, That the committee prepare and bring in a bill pursuant to the third resolution.

The following bills were reported, to wit:

By Mr. Roper—A bill for the benefit of Joseph Ketchum.

By Mr. Flournoy—A bill to establish a Botanical Garden.

And by Mr. Wickliff—A bill to repeal the act appropriating fines and forfeitures for the purpose of promoting education.

Which were severally read the first time, and ordered to be read a second time.

The rule being dispensed with, the first bill was read the second and third times, (having been engrossed.)

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of Joseph Ketchum."

Ordered, That Mr. White inform the House of Representatives thereof, and request their concurrence.

Mr. Barbee, from the joint committee of enrolments, reported that the committee had examined an enrolled bill entitled "an act for the relief of Agnes P. Usher," and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that the Speaker of that House had signed the said bill.

Mr. Beauchamp presented the petition of John A. Stevenson and wife, praying that a law may be passed relinquishing to them the right to certain lands which have escheated to the state; which was read and referred to the committee for courts of justice.

Bills from the House of Representatives, of the following titles, to wit: 1. An act to regulate the town of Nicholasville; 2. an act to authorise the sale of the real estate of John Spence, deceased; 3. an act to amend and extend the law authorising a turnpike on the road leading from the counties of Madison and Rockcastle to the Goose Creek salt-works; were severally read the first time.

The rule being dispensed with, the first and third bills were read a second time, and the first a third time.

Resolved, That the first bill do pass, and that Mr. Blackburn inform the House of Representatives thereof.

The question being taken on reading the second bill a second time, it was resolved in the negative; and so the said bill was rejected.

Ordered, That Mr. Blackburn inform the House of Representatives thereof.

The third bill was committed to Messrs. Howard, Davidson and Ballinger.

A resolution from the House of Representatives, to appoint joint committees to examine the different offices, and the Bank of Kentucky and the Bank of the Commonwealth, was taken up and concurred in.

Ordered, That the Clerk inform the House of Representatives thereof.

An engrossed bill concerning county courts, was read a third time, and committed to Messrs. Blackburn, Roper and Bowman.

A bill for the benefit of Lydia Smith, was read a second time; and the rule being dispensed with, it was read a third time, (having been engrossed.)

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of Lydia Smith."

Ordered, That Mr. Dawson inform the House of Representatives thereof, and request their concurrence.

And then the Senate adjourned.

MONDAY, NOVEMBER 17, 1823.

The Senate assembled.

The Lieutenant-Governor being absent, Mr. Blackburn was elected Speaker for the occasion.

The Speaker signed the enrolled bill for the benefit of Agnes P. Usher, and it was delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee reported that they had performed that duty.

Mr. Owens presented the petition of Daniel Trabue and others, praying that the price of certain lands which they are authorised to appropriate, may be reduced; which was read, and referred to the committee of propositions and grievances.

Mr. Howard, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to amend and extend the law authorising a turnpike on the road leading from the counties of Madison and Rockcastle to the Goose Creek salt-works," reported the same without amendment, and the bill was read a third time.

Resolved, That the said bill do pass, and that Mr. Howard inform the House of Representatives thereof.

The following bills were reported, to wit:

By Mr. Ewing—A bill concerning the Frankfort and Shelbyville turnpike road.

And by Mr. Howard—A bill to enforce the obligation of contracts.

Which were read the first time; and the rule being dispensed with, they were read a second time. The former was committed to Messrs. Denny, Marshall, White and C. H. Allen, and the latter to the committee of the whole house on the state of the commonwealth, for to-morrow.

Ordered, That the public printers forthwith print 150 copies of the latter bill, for the use of the Legislature.

The Senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act for taking the sense of the good people of this commonwealth as to the propriety of calling a convention, and an act for the benefit of George Payne.

Which were read the first time, and ordered to be read a second time.

The rule being dispensed with, the latter bill was read a second time, and committed to the committee for courts of justice.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Beauchamp—A bill to amend the law concerning divorces.

And on the motion of Mr. Marshall—A bill for the benefit of the children of Charles Sproule.

Messrs. Beauchamp, Ewing, Flournoy and Owens were appointed a committee to prepare and bring in the former; and Messrs. Marshall, Flournoy, Denny and Roper, the latter.

Bills from the House of Representatives, of the following titles, to wit: An act for the benefit of Absalom Russell, and an act for the better regulation of the Southern College of Kentucky and the Harrodsburg Seminary, were severally read the first time, and ordered to be read a second time.

The rule being dispensed with, the latter bill was read a second time, and committed to Messrs. Roper, Dawson, M'Affee and Marshall; and after some time, Mr. Roper reported the latter bill with an amendment, which was concurred in and the bill read a third time.

Resolved, That the said bill, as amended, do pass, and that the title be, "an act for the better regulation of the Southern College of Kentucky, and for other purposes."

Ordered, That the Clerk inform the House of Representatives thereof.

The following bills were read a second time, to wit: A bill for the divorce of Sylvanus Lockwood; a bill to establish a Botanical Garden, and a bill to repeal the act appropriating fines and forfeitures for the purpose of promoting education.

The first was committed to Messrs. Owens, Ewing and Smith; the second ordered to be engrossed and read a third time, and the third committed to Messrs. Wickliff, Barbee and Dawson.

Mr. C. H. Allen read and laid on the table a resolution declaring the power of the Legislature to pass a law extending the right of replevin.

And then the Senate adjourned.

TUESDAY, NOVEMBER 18, 1823.

The Senate assembled.

The Lieutenant-Governor appeared and resumed his duties.

Mr. Williams, from the joint committee of enrolments, reported that the committee had examined enrolled bills and an enrolled resolution, of the following titles, to wit: An act to regulate the town of Nicholasville; an act to amend and extend the law authorising a turnpike on the road leading from the counties of Madison and

Rockcastle to the Goose Creek salt-works; a resolution to appoint joint committees to examine the different offices, and the Bank of Kentucky and the Bank of the Commonwealth; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills and resolution.

Whereupon the Speaker of the Senate signed the same, and they were delivered to the joint committee, to be laid before the Governor; and after some time, Mr. Williams, from said committee, reported that they had performed that duty.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

Resolved, That the petition of John A. Stevenson and wife, praying that a law may be passed relinquishing to them the commonwealth's right of escheat to certain lands, *is reasonable*.

Resolved, That the petition of the Lexington Presbyterian Congregation, praying that a law may be passed to confirm certain leases made of a part of their property, and that the law of 1814 authorising religious societies to hold real estate, be extended, so as to authorise them to hold real estate through trustees, *is reasonable*.

They have also had under consideration three bills from the House of Representatives, to them referred, and have come to the following resolutions thereupon, to wit:

Resolved, That the bill entitled "an act for the benefit of the heirs of Robert M'Cormick," *ought not to pass*.

Resolved, That the bill entitled "an act for the relief of the widow and heirs of Thomas Lewis, deceased," *ought not to pass*.

Resolved, That the bill entitled "an act for the benefit of George Payne," *ought to pass*, and that the appropriation be increased to the sum of one hundred dollars.

The committee have also had under consideration the memorial of Charles Humphreys, Esq. requesting the State to subscribe for a portion of his Compendium of the Common Law; and whilst they are unwilling to detract from the merit of the work, and are of opinion that it is of considerable value to the community, yet, from the present situation of the State as to her pecuniary concerns, it is the opinion of the committee, that it is inexpedient, at this time, to accede to the proposition: Therefore,

Resolved, That the proposition be rejected.

Which was twice read and concurred in.

Ordered, That said committee prepare and bring in bills pursuant to the first and second resolutions.

The question being taken on reading the two first bills from the House of Representatives, it was resolved in the negative; and so the said bills were rejected.

The amendment to the latter bill was concurred in with an amendment, and the bill read a third time as amended.

Resolved, That the latter bill, as amended, do pass, and that the title be, "an act for the benefit of George Payne of Union county, and George Payne of Henry county."

Ordered, That the Clerk inform the House of Representatives thereof.

The last resolution was laid on the table.

The Senate received a message from the House of Representatives, announcing that they had disagreed to a bill from the Senate, entitled "an act authorising a lottery for the benefit of Hopkinsville Lodge, No. 37;" and that they had passed bills of the following titles, to wit: An act to authorise the county court of Lawrence to lay an additional levy; an act to provide for limitations in certain actions; an act to declare Little Sandy river a navigable stream; an act to provide for the correction of an error in the conveyance of two lots in the town of Greenupsburg; an act to prevent the removal of persons of colour who may be bound to service; an act further to regulate the debt due the commonwealth for the sale of vacant lands; an act for the benefit of Mary Karr and her children; an act for the benefit of Braddock Baker; an act for the benefit of John Phemister; an act for the benefit of Daniel Curd, surveyor of Barren county; an act to repeal in part an act entitled "an act to amend an act regulating taverns and restraining tippling houses;" an act for the benefit of Benjamin Workman, of Adair county; an act to declare Kinnakinnick in part navigable; an act to change an election precinct in Pike county, and for other purposes; an act extending the jurisdiction of the trustees of the town of Paris; an act for the relief of John Eastis, and an act for the benefit of John Wheeldon.

The following bills were reported, to wit:

By Mr. Roper—A bill for the benefit of the Lexington Presbyterian Congregation.

By Mr. Marshall—A bill to amend an act entitled "an act to abolish imprisonment for debt and subject equitable interests to execution."

And by Mr. C. Allan—A bill for the benefit of Ryland T. Dillard and others.

Which were severally read the first time. The rule being dispensed with, they were read a second time; and the two former (having been engrossed) were read a third time.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act for the benefit of the Lexington Presbyterian Congregation," and "an act to amend an act entitled an act to

abolish imprisonment for debt and subject equitable interests to execution."

Ordered, That the Clerk inform the House of Representatives thereof, and request their concurrence.

Mr. Blackburn, from the select committee to whom was referred an engrossed bill entitled "an act concerning county courts," reported the same with amendments, which, together with the bill, were laid on the table.

Mr. Owens presented the petition of David Logan, accompanied by the petition of sundry citizens of Fayette county, praying that the decision of a former Legislature, whereby he was removed from the office of Justice of the Peace for Fayette county, may be re-examined; which were read, and committed to Messrs. Owens, Flournoy, C. Allan, Blackburn and Marshall.

A bill from the House of Representatives, entitled "an act for taking the sense of the good people of this commonwealth as to the propriety of calling a convention," was read a second time and committed to a committee of the whole house on the state of the commonwealth, for to-morrow.

The Senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Barbee in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Barbee reported, that the committee had, according to order, had under consideration "a bill to enforce the obligation of contracts," and had made some progress therein; but not having time to go through the same, had instructed him to ask for leave to sit again; which was granted,

And then the Senate adjourned.

WEDNESDAY, NOVEMBER 19, 1823.

The Senate assembled.

Thompson Ward, Esq. senator from Greenup, Lewis and part of Lawrence, appeared and took his seat.

Mr. Blackburn presented the petition of Milley Gash, praying a divorce from her husband, Bernard P. Gash.

Mr. Miller presented the petition of sundry citizens of Hardin and Breckinridge counties, praying the formation of a new county out of a part of each of said counties; and Mr. Blackburn presented a petition counter thereto.

Which were severally read, and referred, the former to the committee of religion, and the two latter to the committee of propositions and grievances.

Mr. Marshall, from the select committee to whom was referred "a bill concerning the Frankfort and Shelbyville turnpike road," reported the same with an amendment, which was concurred in, and the bill ordered to be engrossed and read a third time.

A bill from the House of Representatives, entitled "an act for the benefit of Absalom Russell," was read a second time; and the rule being dispensed with, it was read a third time.

Resolved, That the said bill do pass, and that the Clerk inform the House of Representatives thereof.

An engrossed bill entitled "an act to establish a Botanical Garden," was read a third time, and the blanks therein filled.

Resolved, That the said bill do pass, and that the title be, "an act to establish a Botanical Garden."

Ordered, That Mr. Flournoy inform the House of Representatives thereof, and request their concurrence.

Bills from the House of Representatives, of the following titles, to wit: An act to authorise the county court of Lawrence to lay an additional levy; an act to provide for the correction of an error in the conveyance of two lots in the town of Greenupsburg; an act to declare Little Sandy river a navigable stream; an act to prevent the removal of persons of colour who may be bound to service, and an act to provide for limitations in certain actions, were read the first time and ordered to be read a second time.

The rule being dispensed with, the three former bills were read a second time, and the two former a third time.

Resolved, That the two former bills do pass, and that the Clerk inform the House of Representatives thereof.

The third bill was committed to Messrs. T. Ward, Faulkner and Roper.

The Senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Howard in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Howard reported, that the committee had, according to order, had under consideration a bill from the House of Representatives, entitled "an act for taking the sense of the good people of this commonwealth as to the propriety of calling a convention," and had made some progress therein; but not having time to go through the same, had instructed him to ask for leave to sit again; which was granted,

And then the Senate adjourned.

THURSDAY, NOVEMBER 20, 1823.

The Senate assembled.

Mr. Roper presented the petition of sundry citizens of Hardin and Breckinridge counties, counter to those presented for the formation of a new county.

Mr. Denny presented the petition of Ann H. Aldridge and Elizabeth Dickerson, praying that a law may be passed authorising the sale of the real estate devised to said Ann and her infant child, by her husband, John P. Aldridge, deceased.

Which were severally read, and referred, the former to the committee of propositions and grievances, and the latter to Messrs. Denny, Roper and C. Allan.

The following bills were reported, to wit:

By Mr. Marshall—1. A bill for the benefit of the executors of John B. Wooldridge.

By Mr. Denny—2. A bill to authorise the sale of a portion of the real estate of John P. Aldridge, deceased, for the purpose of paying his debts.

And by Mr. Roper—3. A bill for the benefit of John Anderson.

Which were read the first time, and the first and third ordered to be read a second time.

The rule being dispensed with, the first bill was read a second and third time, (having been engrossed.)

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of the executors of John B. Wooldridge."

Ordered, That the Clerk inform the House of Representatives thereof, and request their concurrence.

The question being taken on reading the second bill a second time, it was resolved in the negative; and so the said bill was rejected.

The Senate received a message from the House of Representatives, announcing the passage of a bill from the Senate, entitled "an act to increase the powers of the trustees of the town of Hopkinsville, in Christian county," and the passage of a bill entitled "an act to compensate John Sterrett for surveying the road from Bowlinggreen to the mouth of Clover creek on the Ohio.

Mr. Owens, from the select committee to whom was referred "a bill for the divorce of Sylvanus Lockwood," reported the same with an amendment, which was twice read and disagreed to.

Mr. Owens then moved the following resolution, to wit:

Whereas, although notice was given, that application would be made to the Legislature for a divorce, the affidavits taken on the part of Sylvanus Lockwood, to be read upon the application for a divorce, were taken without giving to the adverse party any notice: Therefore,

Resolved, That for that cause the bill ought not to pass.

Mr. Ewing moved the following resolution as a substitute, to wit:

Whereas the affidavits on the part of Sylvanus Lockwood, to be read upon the application for a divorce, were taken without giving to the adverse party any notice; but that proceedings were had upon notice being given that application would be made to the Legislature; and the testimony being satisfactory before the committee of religion: Therefore,

Resolved, That the bill ought to pass.

The question being taken on the adoption of the first resolution, it was resolved in the affirmative—Yeas 18, nays 18—the Lieutenant-Governor voting in the affirmative.

The yeas and nays being required thereon by Messrs. Owens and C. Allan, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, C. H. Allen, Barbee, Barrett, Beauchamp, Blackburn, Denny, Flournoy, Forsythe, Hickman, Marshall, Morehead, Owens, Roper, Towles, J. Ward, T. Ward and Williams.

Those who voted in the negative, are, Messrs. Ballinger, Carneal, Cowan, Davidson, Dawson, Duncan, Ewing, Faulkner, Gorin, Howard, Lyon, M'Afee, Miller, Rudd, Smith, White, Wickliff and Worthington.

The question was then taken on engrossing and reading the said bill a third time, and it was resolved in the negative; and so the said bill was rejected.

The Senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Davidson in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Davidson reported, that the committee had, according to order, resumed the consideration of a bill from the House of Representatives, entitled "an act for taking the sense of the good people of this commonwealth as to the propriety of calling a convention," and had made some further progress therein; but not having time to go through the same, had instructed him to ask for leave to sit again; which was granted,

And then the Senate adjourned.

FRIDAY, NOVEMBER 21, 1823.

The Senate assembled, and immediately resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Faulkner in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Faulkner reported, that the committee had, according to order, resumed the consideration of

a bill from the House of Representatives, entitled "an act for taking the sense of the good people of this commonwealth on the propriety of calling a convention," and had gone through the same without amendment; which bill he handed in at the Clerk's table, and it was read again as follows, to wit:

An Act for taking the sense of the good People of this Commonwealth as to the propriety of calling a Convention.

Whereas it is provided by the ninth article of the Constitution of this Commonwealth, that "when experience shall point out the necessity of amending this Constitution, and when a majority of all the members elected to each house of the General Assembly, shall, within the first twenty days of their stated annual session, concur in passing a law for taking the sense of the good people of this Commonwealth as to the necessity and expediency of calling a Convention, it shall be the duty of the several sheriffs and other returning officers, at the next general election which shall be held for representatives, after the passage of such law, to open a poll for, and make a return to the Secretary for the time being, of the names of all those entitled to vote for representatives, who have voted for calling a Convention; and if thereupon it shall appear a majority of the citizens of this State, entitled to vote for representatives, have voted for a Convention, the General Assembly shall direct that a similar poll shall be opened and taken for the next year; and if thereupon it shall appear a majority of the citizens of this State, entitled to vote for representatives, have voted for a Convention, the General Assembly shall, at their next session, call a Convention, to consist of as many members as there shall be in the House of Representatives, and no more, to be chosen in the same manner and proportion, at the same places and at the same time that representatives are, by citizens entitled to vote for representatives, for the purpose of re-adopting, amending or changing this Constitution:"

Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky, That the Judges, at the several annual elections to be held for the year one thousand eight hundred and twenty-four, shall make due report of the number voting for a Convention, to the respective sheriffs, and shall cause the same to be entered in their general return to the Secretary of State, of representatives to serve for the year one thousand eight hundred and twenty-four, in their respective counties; and the sheriff of each county shall, moreover, cause a notice of this act to be affixed at his court-house door, and also to be read every day at the opening of the polls.

This act shall commence and be in force from and after its passage.

And the question being taken on reading the said bill a third time, it was resolved in the negative—Yeas 18, nays 18.

The yeas and nays being required thereon by Messrs. Ewing and Rudd, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Denny, Duncan, Ewing, Forsythe, Gorin, Lyon, M'Afee, Miller, Owens, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Morehead, Roper, Rudd, Smith, Towles, J. Ward, T. Ward, White and Williams.

The Speaker declared that there was not a constitutional majority to pass the bill; and so it was rejected.

Ordered, That Mr. Blackburn inform the House of Representatives thereof.

The following committees were appointed on the part of the Senate, pursuant to a joint resolution, to wit: Messrs. Davidson and Lyon, to examine the Treasurer's office; Messrs. T. Ward, Hickman and Towles, to examine the Auditor's office; Messrs. Ballinger, C. H. Allen, J. Ward and Rudd, to examine the Register's office; Messrs. Howard, Barrett, White and Miller, to examine the Penitentiary; Messrs. Carneal, C. Allan, Worthington and Cowan, to examine the Bank of Kentucky; and Messrs. M'Afee, Owens, Flournoy and Bowman, to examine the Bank of the Commonwealth.

Ordered, That the Clerk inform the House of Representatives thereof.

And then the Senate adjourned.

SATURDAY, NOVEMBER 22, 1823.

The Senate assembled.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined enrolled bills of the following titles, to wit: An act to authorise the county court of Lawrence to lay an additional levy; an act to provide for the correction of an error in the conveyance of two lots in the town of Greenupsburg, and an act for the benefit of Absalom Russell; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills.

Whereupon the Speaker of the Senate signed the same, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee, from said committee, reported that they had performed that duty.

The Speaker laid before the Senate the following communication, to wit:

AUDITOR'S OFFICE, November 22, 1823.

Sir:

By a resolution of the House of Representatives, of the 7th instant, requiring the Auditor of Public Accounts to return the number of voters in the several counties, for the year 1823, to that body, on this day, (which resolution I have complied with,) I have the honor also to hand you, accompanying this, a statement of the number of voters for said year, as far as returns have been made to this office.

Respectfully, yours,

P. CLAY, *Aud. P. C.*

WILLIAM T. BARRY, Esq.

Speaker of the Senate.

A STATEMENT

Of the number of Voters for the year 1823, as far as the Commissioners' Books for said year have been returned, to wit:

Counties.	No. of Voters.	Counties.	No. of Voters.
Adair,	1,585	Hardin,	2,004
Breckinridge,	1,024	Knox,	654
Bracken,	925	Lincoln,	1,326
Butler,	419	Livingston,	713
Bourbon,	2,203	Logan,	1,301
Boone,	1,000	Lawrence,	409
Bath,	1,252	Muhlenberg,	823
Caldwell,	1,095	Mercer,	2,247
Clarke,	1,694	Morgan,	326
Clay,	447	Monroe,	649
Calloway,	555	Montgomery,	1,341
Casey,	562	Nicholas,	1,356
Cumberland,	1,246	Ohio,	671
Daveiss,	493	Owen,	767
Floyd,	562	Pulaski,	1,331
Garrard,	1,550	Rockcastle,	460
Greenup,	570	Scott,	1,823
Grayson,	737	Simpson,	598
Grant,	344	Shelby,	2,962
Harrison,	1,876	Union,	480
Henderson,	596	Washington,	2,141
Hickman,	400		

P. CLAY, *Aud. P. A.*

Auditor's Office, Nov. 22d, 1823.

The Senate received a message from the Governor, by Mr. Secretary Monroe, covering several communications from other States, concerning amendments to the Constitution of the United States.

They also received another message, by Mr. Waggener, covering communications from the Governor of Virginia, concerning the road leading by Mountsterling to the Virginia line.

The Senate received several messages from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act to provide for running the line between the counties of Knox and Harlan; an act to establish an election precinct in Washington county; an act for the benefit of John W. Riggs and Joseph Paxton; an act concerning the town of Elkton in Todd county, and an act to prescribe the duties of the Judges of the Court of Appeals, and for other purposes; and that they had adopted a resolution appointing joint committees to examine the reports of the Bank of the Commonwealth and branches.

Bills from the House of Representatives, of the following titles, to wit: An act to prevent the removal of persons of colour who may be bound to service, and an act to provide for limitations in certain cases, were read a second time.

The rule being dispensed with, the former bill was read a third time.

Resolved, That the said bill do pass, and that Mr. Ewing inform the House of Representatives thereof.

The latter bill was committed to Messrs. Blackburn, T. Ward, Marshall and Lyon.

Mr. T. Ward, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to declare Little Sandy river a navigable stream," reported the same without amendment, and it was read a third time.

Resolved, That the said bill do pass, and that Mr. T. Ward inform the House of Representatives thereof.

The following bills were reported, to wit:

By Mr. Denny—1. A bill for the benefit of the Presbyterian Congregation in Louisville.

By Mr. Blackburn—2. A bill for the benefit of John A. Stevenson and wife.

And by Mr. Dawson—3. A bill concerning Kentucky land warrants which may have been lost.

Which were severally read the first time, and ordered to be read a second time.

The rule being dispensed with, the two former bills were read a second time, and ordered to be engrossed and read a third time.

Bills from the House of Representatives, of the following titles, to wit: 1. An act for the benefit of Daniel Curd, surveyor of Barren county; 2. an act for the benefit of John Phemister; 3. an act for the benefit of Benjamin Workman, of Adair county; 4. an act to declare Kinnakinnick in part navigable; 5. an act for the relief of John Eastis; 6. an act for the benefit of John Wheeldon; 7. an act for the benefit of Mary Karr and her children; 8. an act to

change an election precinct in Pike county, and for other purposes; 9. an act to amend the act for the establishment of a State Road from Lexington to Ghent on the Ohio river; 10. an act for the benefit of Braddock Baker; 11. an act extending the jurisdiction of the trustees of the town of Paris; 12. an act to repeal in part an act entitled "an act to amend an act regulating taverns and restraining tippling houses;" and 13. an act further to regulate the debt due the commonwealth for the sale of vacant lands; were severally read the first time, and ordered to be read a second time.

The rule being dispensed with, the first eleven bills were read a second time, and the first six a third time.

Resolved, That the first six bills do pass, and that Mr. Davidson inform the House of Representatives thereof.

The seventh bill was committed to Messrs. Blackburn, Morehead and Wickliff; the eighth, to Messrs. T. Ward, Howard and Lyon; the ninth, to Messrs. Marshall, Forsythe and Smith; and the tenth, to Messrs. Howard, Blackburn and Beauchamp.

An engrossed bill entitled "an act concerning county courts," together with the proposed amendments thereto, was taken up and re-committed to Messrs. M'Afee, Morehead and Blackburn.

And then the Senate adjourned.

MONDAY, NOVEMBER 24, 1823.

The Senate assembled.

Mr. Williams, from the joint committee of enrolments, reported that the committee had examined sundry enrolled bills of the following titles, to wit: An act for the benefit of John Wheeldon; an act to declare Little Sandy river a navigable stream; an act for the benefit of John Eastis; an act for the benefit of Benjamin Workman, of Adair county; an act to declare Kinnakinnick in part navigable; an act for the benefit of John Phemister; an act for the benefit of Daniel Curd, surveyor of Barren county; an act to increase the powers of the trustees of the town of Hopkinsville, in Christian county; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills.

Whereupon the Speaker of the Senate signed the same, and they were delivered to the joint committee, to be laid before the Governor; and after some time, Mr. Williams reported that they had performed that duty.

Mr. White presented the petition of the Shelby county court, remonstrating against the opening of the road from Frankfort to Bowlinggreen; which was read, and referred to the committee for courts of justice.

The Senate received, by Mr. Secretary Monroe, a message in writing, covering a communication from the Governor of Illinois, on the subject of lands appropriated by Congress for the promotion of education.

Mr. M'Affee, from the select committee to whom was referred "a bill concerning county courts," reported the same with amendments, which were concurred in with amendments, and the bill ordered to be re-engrossed and read again.

The following bills from the House of Representatives, were reported from the select committees to whom they were referred, to wit: By Mr. Howard, a bill for the benefit of Braddock Baker; by Mr. Blackburn, a bill for the benefit of Mary Karr and her children; severally with amendments, which were concurred in, and the bills read a third time.

Resolved, That the said bills, as amended, do pass, and that Mr. Howard inform the House of Representatives thereof.

On motion,

Resolved, That leave of absence be given to Mr. Gorin, from the service of the Senate, for twelve days.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Owens—1. A bill to appropriate the vacant lands east of the Tennessee river, lying between the Tennessee line and 36 degrees 30 minutes north latitude.

On the motion of Mr. Denny—2. A bill concerning county courts.

On the motion of Mr. Davidson—3. A bill for the benefit of Archelaus Perrin.

On the motion of Mr. Ward—4. A bill to amend an act to reduce into one the several acts respecting the establishment of ferries.

And on the motion of Mr. C. H. Allen—5. A bill to authorise Jesse Kennedy to raise, by way of lottery, a sum of money for the purpose of sinking a salt well.

Messrs. Owens, Ballinger and Cowan were appointed a committee to prepare and bring in the first; Messrs. Denny, Blackburn, M'Affee and Marshall, the second; Messrs. Ward, Blackburn and C. H. Allen, the fourth; Messrs. C. H. Allen, Marshall and Rudd, the fifth; and the third was committed to the committee for courts of justice.

The following bills were reported, to wit:

By Mr. M'Affee—1. A bill supplementary to "an act for the benefit of the children of Hannah Porter," approved November 10, 1823.

By Mr. Marshall—2. A bill for the benefit of the children of Charles Sproule.

And by Mr. Lyon—3. A bill to provide for the sale of certain vacant lands west of Tennessee river.

Which were read the first time; and the rule being dispensed with, they were read a second time, and the first and second a third time, (having been engrossed.)

Resolved, That the said bills do pass, and that the titles be, respectively, "an act supplementary to an act for the benefit of the children of Hannah Porter, approved November 10, 1823," and "an act for the benefit of the children of Charles Sproule, deceased."

Ordered, That Mr. M'Afee inform the House of Representatives thereof, and request their concurrence.

The third bill was committed to a committee of the whole house on the state of the commonwealth.

Ordered, That the public printers forthwith print 150 copies of said bill, for the use of the Legislature.

The Senate received a message from the House of Representatives, announcing that they had passed a bill from the Senate, entitled "an act supplementary to an act for the benefit of the children of Hannah Porter, approved November 10, 1823," and that they had adopted a resolution authorising the Keeper of the Penitentiary to employ the convicts therein to work on the walls thereof.

Which resolution was taken up, twice read and concurred in, as follows:

IN THE HOUSE OF REPRESENTATIVES, NOV. 24, 1823.

Resolved by the General Assembly of the Commonwealth of Kentucky, That the Keeper of the Penitentiary be, and he hereby is permitted to employ any portion, at his discretion, of the convicts under his care, in working on the roof of the new wall of that building, at a fair price, under the direction of the undertaker of the work, who may limit the number he will pay, by contract.

Extract, &c.—Attest,

R. S. TODD, C. H. R.

Ordered, That Mr. M'Afee inform the House of Representatives thereof.

Mr. Beauchamp moved the following resolution, to wit:

Whereas it appears from the late decision of the Supreme Court of the United States, declaring our occupying claimant laws unconstitutional, that a paper, purporting to be the opinion of the Court of Appeals of Kentucky, in the case of Hoy's heirs vs. M'Murry, was handed in and used in manuscript before said court, which was relied on by them as authority, and referred to by them in support of their opinion in the final issue of said cause, when in truth and in fact the same was suspended, and not the decision of said court at the time; neither has the same been confirmed as law, notwithstanding it has been printed in Littell's first volume of Term Reports: Therefore,

Resolved, That a committee of five members of the Senate be appointed to enquire into the manner said paper was procured

from the Clerk of the Court of Appeals, and how the same came to be printed in the Term Reports; and also, whether the same is considered as the law of the land; and that they have power to send for persons, papers and records, and to report by bill or otherwise.

Which was adopted; and Messrs. Beauchamp, C. H. Allen, T. Ward, Owens and Blackburn were appointed a committee pursuant thereto.

Mr. Ewing read and laid on the table a joint resolution fixing on a day for the election of certain officers.

Bills from the House of Representatives, of the following titles, to wit: 1. An act to establish an election precinct in Washington county; 2. an act concerning the town of Elkton, in Todd county; 3. an act to provide for running the line between the counties of Knox and Harlan; 4. an act to prescribe the duties of the Judges of the Court of Appeals, and for other purposes; and 5. an act to compensate John Sterrett for surveying the road from Bowling-green to the mouth of Clover creek; were severally read the first time, and ordered to be read a second time.

The rule being dispensed with, the first and second bills were read a second and third times, (the first having been amended at the Clerk's table.)

Resolved, That the said bills do pass, the first as amended, and that the title be, "an act to establish election precincts in Washington and Calloway counties."

Ordered, That Mr. Lyon inform the House of Representatives thereof.

The third bill was committed to Messrs. Davidson, Ballinger and Worthington.

An engrossed bill entitled "an act for the benefit of the Presbyterian Congregation at Louisville," was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of the Presbyterian Congregation at Louisville."

Ordered, That Mr. Denny inform the House of Representatives thereof, and request their concurrence.

And then the Senate adjourned.

TUESDAY, NOVEMBER 25, 1823.

The Senate assembled.

Mr. Lyon presented the several petitions of George Marshall and Clara Marshall, his wife, praying that the Legislature may pass a law dissolving the marriage contract between them; which were read, and, with the accompanying document, referred to the committee of religion.

Mr. Davidson, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to provide for the running of the line between Knox and Harlan counties," reported the same with an amendment; which was concurred in, and the bill read a third time.

Resolved, That the said bill, as amended, do pass, and that Mr. Davidson inform the House of Representatives thereof.

The following bills were reported, to wit:

By Mr. Denny—1. A bill to amend the several acts concerning the county courts, and for other purposes. Also, 2. a bill to alter the time of holding the common law terms of the Jefferson circuit court, and for other purposes.

By Mr. Owens—3. A bill to appropriate the vacant lands lying east of the Tennessee river, and between the Tennessee line and 36 degrees 30 minutes north.

By Mr. C. H. Allen—4. A bill to authorise Jesse Kennedy to raise, by lottery, a certain sum of money.

By Mr. Miller—5. A bill to amend the penal laws.

And by Mr. Rudd—6. A bill to amend the militia law.

Which were severally read the first time, and ordered to be read a second time.

The rule being dispensed with, the first bill was read a second time, and committed to a committee of the whole house on the state of the commonwealth.

Ordered, That the public printers forthwith print 150 copies of said bill, for the use of the Legislature.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Beauchamp—A bill to raise the wages of the Members of the Legislature.

And on the motion of Mr. Ewing—A bill to repeal in part an act for the opening of a road from Bowlinggreen to the Ohio river.

Messrs. Beauchamp, Ewing and J. Ward were appointed a committee to prepare and bring in the former; and Messrs. Ewing, Lyon and Duncan, the latter.

The Senate received, by Mr. Secretary Monroe, a written message from the Governor, covering a communication from the Governor of Maryland, communicating the report of the commissioners appointed to survey the river Potomac.

Mr. Owens presented the petition of Stephen T. Conn, accompanied by the petition of sundry citizens of Wayne county, praying that he may be permitted to appropriate certain vacant lands where he is boring for salt water; which was read, and committed to Messrs. Owens, Blackburn and Wickliff.

Ordered, That the Sergeant-at-arms procure, for the use of the Senate, 40 copies of the Decision of the Supreme Court of the United States on the Occupying Claimant Laws, and the same number of the Decision of the Court of Appeals on the Replevin Laws.

Mr. Morehead presented the petition of sundry stockholders of the Farmers and Mechanics' Bank of Logan, praying that a law may be passed amending the law for winding up the Independent Banks; which was read, and referred to Messrs. Morehead, Ewing, White and Blackburn.

Bills from the House of Representatives, of the following titles, to wit: 1. An act for the benefit of John W. Riggs and Joseph Paxton, and 2. an act extending the jurisdiction of the trustees of the town of Paris, were severally read, the former the first time, and the latter a third time; and the rule being dispensed with, the former bill was read a second and third times.

Resolved, That the said bills do pass, and that Mr. Hickman inform the House of Representatives thereof.

The Senate received information, by Mr. Waggener, that the Governor did, on yesterday, approve and sign an enrolled bill which originated in the Senate, entitled "an act to increase the powers of the trustees of the town of Hopkinsville, in Christian county."

Ordered, That the Clerk inform the House of Representatives thereof.

A resolution from the House of Representatives, appointing joint committees to examine the reports of the Bank of the Commonwealth and branches, was taken up, read and concurred in, as follows, to wit:

IN THE HOUSE OF REPRESENTATIVES, Nov. 18, 1823.

Resolved by the Senate and House of Representatives, That the senators and representatives residing within each bank district, for the Bank of the Commonwealth and branches, be a committee, whose duty it shall be to examine the reports from said bank and branches within their districts, and to make report of such examination to each branch of this General Assembly.

Extract, &c.—Attest, R. S. TODD, C. H. R.

Ordered, That Mr. Lyon inform the House of Representatives thereof.

A bill for the benefit of John Anderson, and a bill concerning Kentucky land warrants which may have been lost, were severally read a second time, and ordered to be engrossed and read a third time.

The rule being dispensed with, and the former bill having been engrossed, it was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of John Anderson."

Ordered, That Mr. Lyon inform the House of Representatives thereof, and request their concurrence.

Bills from the House of Representatives, of the following titles, to wit: 1. An act to repeal in part an act entitled "an act to amend an act regulating taverns and restraining tippling houses;" 2. an

act further to regulate the debt due the commonwealth for the sale of vacant lands; 3. an act to compensate John Sterrett for surveying the road from Bowlinggreen to the Ohio; and 4. an act to prescribe the duties of the Judges of the Court of Appeals, and for other purposes; were severally read a second time.

Mr. Marshall moved the following amendment to the second bill, to wit:

Provided, That nothing in this act contained shall authorise any person to redeem such claim thus stricken off to the State, except the actual settler or settlers upon such land.

And the question being taken thereon, it was resolved in the negative—Yeas 9, nays 15.

The yeas and nays being required thereon by Messrs. Marshall and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Blackburn, Hickman, Howard, Marshall, Smith, White, Wickliff, Williams and Worthington.

Those who voted in the negative, are, Messrs. Ballinger, Cowan, Davidson, Dawson, Denny, Duncan, Ewing, Forsythe, Lyon, M'Affee, Miller, Morehead, Owens, Rudd and J. Ward.

The rule being dispensed with, the first and second bills were read a third time.

Resolved, That the second bill do pass, and that Mr. Ewing inform the House of Representatives thereof.

The first bill was laid on the table. The third was committed to Messrs. Ewing, Blackburn, Dawson and Denny; and the fourth to Messrs. Marshall, Blackburn, Denny and Beauchamp.

Mr. Ewing, from the former committee, reported said bill with an amendment, which was concurred in, and the bill read a third time, and laid on the table until the first day of June next.

The Senate received a message from the House of Representatives, announcing the passage of a bill entitled "an act for the benefit of Henry Durham and John Ferguson."

Which bill was read the first time; and the rule being dispensed with, it was read a second and third times.

Resolved, That the said bill do pass, and that Mr. Dawson inform the House of Representatives thereof.

Mr. Owens reported a bill for the benefit of Stephen T. Conn, which was read the first time; and the rule being dispensed with, it was read a second and third times, (having been engrossed.)

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of Stephen T. Conn."

Ordered, That Mr. Owens inform the House of Representatives thereof, and request their concurrence.

Engrossed bills, to wit: A bill concerning the Frankfort and Shelbyville turnpike road; a bill for the benefit of John A. Stever-

son and wife, and a bill authorising certain county courts to hold additional terms, were severally read a third time.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act concerning the Frankfort and Shelbyville, and the Shelbyville and Louisville turnpike roads;" "an act for the benefit of John A. Stevenson and wife," and "an act authorising certain county courts to hold additional terms."

Ordered, That the Clerk inform the House of Representatives thereof, and request their concurrence.

And then the Senate adjourned.

WEDNESDAY, NOVEMBER 26, 1823.

The Senate assembled.

Mr. Williams, from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles, to wit: An act to prevent the removal of persons of colour who may be bound to service, and an act concerning the town of Elkton, in Todd county; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills.

Whereupon the Speaker of the Senate signed the same, and they were delivered to the joint committee, to be laid before the Governor; and after some time, Mr. Williams reported that they had performed that duty.

Mr. Denny presented the petition of James S. and Albert G. Crutchfield, two of the heirs of Thomas Crutchfield, deceased, praying that a law may be passed authorising the sale of a tract of land which descended to his heirs; which was read, and referred to the committee for courts of justice.

The Senate received, by Mr. Waggener, a message from the Governor, containing certain military nominations.

Mr. Smith, from the committee of religion, made the following report, to wit:

The committee of religion have, according to order, had under consideration the petition of Milley Gash, representing that her husband, Bernard P. Gash, has abandoned her for upwards of three years, and is living in adultery with another woman, and praying for a divorce, and have come to the following resolution thereupon, to wit:

Resolved, That the said petition *be rejected*.

Which being twice read, and the resolution amended, by striking out the words "be rejected," and inserting in lieu thereof the words "is reasonable," was concurred in.

Ordered, That the committee prepare and bring in a bill pursuant to said resolution.

The following bills were reported, to wit:

By Mr. Smith—A bill for the divorce of George Marshall and wife.

And by Mr. Ward—A bill to amend an act entitled "an act to reduce into one the several acts respecting the establishment of ferries."

Which were read the first time; and the rule being dispensed with, they were read a second time, and the latter a third time, (having been engrossed.)

Resolved, That the said bill do pass, and that the title be, "an act to amend an act to reduce into one the several acts respecting ferries."

Ordered, That Mr. T. Ward inform the House of Representatives thereof, and request their concurrence.

The former bill was amended at the Clerk's table, as follows, to wit:

An Act for the divorce of George Marshall and wife.

Whereas it is represented to the present Legislature, by the petitions of George Marshall and Clara, his wife, that they have lived separate since January last; and from the dissimilarity of their dispositions, they cannot live together, and each has petitioned to be divorced: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage between the said George and Clara be, and the same is hereby totally dissolved, and they restored to all the rights and privileges of single persons: *Provided*, that each of said persons shall retain and hold all the property they respectively owned at the time of the marriage, free from the control or liability to the debts of the other.

And whereas it further appears, that Nancy Chapman, wife of Peyton Chapman of Adair county, has, for a long time, absented herself from her said husband, and refuses to return to, and live with him again:

Be it further enacted, That the marriage solemnized between the said Peyton Chapman and Nancy, his wife, be, and the same is hereby dissolved, and the said Peyton divorced from his said wife.

And the question being taken on engrossing and reading the bill a third time, it was resolved in the negative—Yeas 6, nays 20.

The yeas and nays being required thereon by Messrs. Beauchamp and White, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Dawson, Forsythe, Lyon, Owens, Rudd and Wickliff.

Those who voted in the negative, are, Messrs. C. H. Allen, Balinger, Barrett, Beauchamp, Blackburn, Cowan, Davidson, Dun-

ean, Ewing, Hickman, Howard, M'Afee, Marshall, Miller, Morehead, Smith, J. Ward, T. Ward, White and Williams.

And so the said bill was rejected.

The Senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act to authorise the Editors of "The Green River Correspondent," and "The Commonwealth," to insert advertisements therein; and an act to appoint commissioners to fix upon a permanent seat of justice for Pike county, and for other purposes.

The said bills were read the first time; and the rule being dispensed with, they were read a second and third times.

Resolved, That the said bills do pass, and that Mr. T. Ward inform the House of Representatives thereof.

An engrossed bill entitled "an act concerning Kentucky land warrants which may have been lost," was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act concerning Kentucky land warrants which may have been lost."

Ordered, That Mr. Dawson inform the House of Representatives thereof, and request their concurrence.

Mr. T. Ward, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to change an election precinct in Pike county, and for other purposes," reported the same with amendments, which were concurred in, and the bill read a third time.

Resolved, That the said bill, as amended, do pass, and that Mr. T. Ward inform the House of Representatives thereof.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Marshall—A bill to provide for the distribution of the Laws, the Journals, and the Reports of the Decisions of the Court of Appeals.

And on the motion of Mr. M'Afee—A bill for the benefit of the widow and heirs of John Wilson.

Messrs. Marshall, M'Afee and T. Ward were appointed a committee to prepare and bring in the former; and Messrs. M'Afee, Ewing and Marshall, the latter.

The resolution fixing on a day for the election of certain officers, was taken up, read and adopted, as follows, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky, That they will, on Thursday the 10th of December next, proceed to the election of a Treasurer, Public Printers, Presidents and Directors of the Commonwealth's Bank and branches, and Bank of Kentucky.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

The following bills were read a second time, to wit: A bill to amend the militia law; a bill to authorise Jesse Kennedy to raise,

by lottery, a certain sum of money, and a bill to amend the penal laws.

The two former were ordered to be engrossed and read a third time, and the latter was committed to a committee of the whole house on the state of the commonwealth.

And then the Senate adjourned.

THURSDAY, NOVEMBER 27, 1823.

The Senate assembled.

The following bills were reported, to wit:

By Mr. Ewing—A bill to repeal in part an act for opening a road from Bowlinggreen to the mouth of Clover creek on the Ohio river, approved December 11, 1822.

And by Mr. Beauchamp—A bill to amend the act regulating divorces, approved January 31, 1809; and a bill to raise the wages of the Members of the General Assembly.

Which were read the first time, and ordered to be read a second time.

The senate received several messages from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act to establish the county seat for Morgan county; an act to authorise the inhabitants of Morgan county to vote at their present seat of justice; an act to authorise the sale of a part of the public square in the town of Cadiz; an act to alter the mode of appointing trustees in the Madison seminary; an act providing for a change of venue in the case of William Wells; an act for the benefit of Harman Greathouse, and an act to amend the execution laws of this commonwealth.

The four first bills were read the first time; and the rule being dispensed with, they were read a second and third times.

Resolved, That the said bills do pass, and that Mr. T. Ward inform the House of Representatives thereof.

Mr. Marshall, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to prescribe the duties of the Judges of the Court of Appeals, and for other purposes," reported the same with amendments, which were concurred in, and the bill committed to a committee of the whole house on the state of the commonwealth.

Ordered, That the public printers forthwith print 150 copies of said bill, as amended, for the use of the Senate.

A bill to appropriate the vacant lands lying east of the Tennessee river, between the Tennessee line and 36 degrees 30 minutes north, was read a second time, and committed to a committee of the whole house on the state of the commonwealth.

Engrossed bills, to wit: A bill to authorise Jesse Kennedy to raise, by lottery, a certain sum of money, and a bill to amend the militia law, were read a third time.

The question being taken on the passage of the former bill, it was resolved in the affirmative—Yeas 17, nays 10.

The yeas and nays being required thereon by Messrs. Davidson and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barrett, Beauchamp, Blackburn, Cowan, Duncan, Ewing, Forsythe, Lyon, M'Affee, Miller, Owens, J. Ward, T. Ward, White and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Barbee, Davidson, Dawson, Howard, Morehead, Rudd, Smith, Towles and Wickliff.

Resolved, That the former bill do pass, and that the title be, "an act to authorise Jesse Kennedy to raise, by lottery, a certain sum of money."

Ordered, That Mr. T. Ward inform the House of Representatives thereof, and request their concurrence.

The latter bill was committed to Messrs. T. Ward, M'Affee, Wickliff, Rudd and Davidson.

The Senate received, by Mr. Waggener, a written message from the Governor, containing military nominations; also, information that the Governor did, on yesterday, approve and sign an enrolled bill which originated in the Senate, entitled "an act supplementary to an act for the benefit of the children of Hannah Porter, approved November 10, 1823."

Ordered, That Mr. Williams inform the House of Representatives thereof.

The Senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Davidson in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Davidson reported, that the committee had, according to order, had under consideration a bill to revive and continue in force part of the act concerning the Bank of Kentucky and the Bank of the Commonwealth of Kentucky, approved December 5, 1822, and had gone through the same with amendments, which he handed in at the Clerk's table, where the same were twice read and concurred in.

Mr. Marshall then moved an amendment to the bill.

Ordered, That the bill and amendment be laid on the table, and that the public printers forthwith print 150 copies of the amendment, for the use of the Senate.

And then the Senate adjourned.

FRIDAY, NOVEMBER 28, 1823.

The Senate assembled.

Mr. Barbee presented the petition of sundry citizens of Green county, praying that a law may be passed authorising a way to be viewed for a road from Greensburg to the Ohio river.

Mr. White presented the petition of sundry officers of the 85th regiment of militia, protesting against the confirmation of the appointment of Enoch Stout as a major in said regiment.

Which were severally read, and referred, the former to Messrs. Barbee, Miller and Owens, and the latter to Messrs. White, Davidson, Faulkner, Barbee and M'Afee.

Ordered, That the committee of propositions and grievances be discharged from the further consideration of the petition of sundry citizens of Hardin and Breckinridge counties, praying the formation of a new county out of parts of said counties; also, the petitions counter thereto; and the same were committed to Messrs. Miller, Duncan and Denny.

Messrs. Barbee and Williams, from the joint committee of enrolments, reported that the committee had examined sundry enrolled bills and resolutions of the following titles, to wit: An act to appoint commissioners to fix upon a permanent seat of justice for Pike county, and for other purposes; an act to alter the mode of appointing trustees in the Madison seminary; an act to authorise the Editors of "The Green River Correspondent," and "The Commonwealth," to insert advertisements therein; a resolution appointing joint committees to examine the reports of the Bank of the Commonwealth and its branches; an act for the benefit of John W. Riggs and Joseph Paxton; an act further to regulate the debt due the commonwealth for the sale of vacant lands; an act to authorise the sale of a part of the public square in the town of Cadiz; a resolution authorising the Keeper of the Penitentiary to employ the convicts to work on the walls thereof, and an act for the benefit of Henry Durham and John Ferguson; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills and resolutions.

Whereupon the Speaker of the Senate signed the same, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee, from said committee, reported that they had performed that duty.

Mr. Beauchamp, from the select committee to whom was referred "a bill to amend the law relative to civil proceedings," reported the same with amendments, which were read, and the first

concurred in; and the bill, with the amendments, was committed to Messrs. Owens, Marshall, Beauchamp and T. Ward.

The Senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act for the benefit of Angus MPhail; an act for the benefit of Joseph and Thomas Rotch, of Massachusetts; an act allowing further time for surveying head-right lands and registering the same, and an act for the benefit of the heirs of John Foster, deceased.

Which were read the first time, and ordered to be read a second time; and the rule being dispensed with, the first and second bills were read a second time, and the first a third time.

Resolved, That the first bill do pass.

The question being taken on reading the fourth bill a second time, it was resolved in the negative; and so the said bill was rejected.

Ordered, That Mr. Lyon inform the House of Representatives thereof.

The second bill was committed to the committee for courts of justice.

The following bills were read a second time, to wit: 1. A bill to raise the wages of the Members of the Legislature; 2. a bill to amend the act regulating divorces, and 3. a bill to repeal in part an act for opening a road from Bowlinggreen to the mouth of Clover creek on the Ohio river, approved December 11, 1822.

The second bill was committed to Messrs. Flournoy, Ewing, Beauchamp and Towles; the third bill was laid on the table until the first day of June next; and the first bill having been engrossed and the rule being dispensed with, was read a third time.

Mr. Beauchamp moved to fill the blank in the bill with "four dollars," being the wages per day; and the question being taken thereon, it was resolved in the negative—Yeas 3, nays 26.

The yeas and nays being required thereon by Messrs. Flournoy and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Beauchamp and Marshall.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Barbee, Barrett, Blackburn, Cowan, Davidson, Dawson, Duncan, Ewing, Faulkner, Flournoy, Forsythe, Hickman, Howard, Lyon, M'Afee, Miller, Morehead, Rudd, Smith, J. Ward, T. Ward, Wickliff, Williams and Worthington.

The blank was then filled with "three dollars;" and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 22, nays 12.

The yeas and nays being required thereon by Messrs. Beauchamp and Flournoy, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Barbee, Barrett, Beauchamp, Blackburn, Cowan, Davidson, Dawson, Denny, Duncan, Ewing, Forsythe, Howard, M'Attee, Marshall, Miller, Roper, Rudd, Towles, J. Ward, T. Ward, White and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Ballinger, Faulkner, Flournoy, Hickman, Lyon, Morehead, Owens, Smith, Wickliff and Williams.

Resolved, That the said bill do pass, and that the title be, "an act to raise the wages of the Members of the General Assembly."

Ordered, That Mr. Ewing inform the House of Representatives thereof, and request their concurrence.

On motion of Mr. Blackburn, leave was given him to report "a bill for the improvement of the navigation of the Kentucky river;" which was read the first time, and ordered to be read a second time.

Mr. Owens, from the select committee to whom was referred the petition of David Logan, made a report; which was read, and committed to a committee of the whole house on the state of the commonwealth, for Wednesday next.

The Senate received a message from the House of Representatives, announcing their concurrence in a resolution from the Senate, fixing on a day for the election of certain officers; and also, in amendments made by the Senate, to bills of the following titles, to wit: An act for the benefit of Mary Karr and her children; an act for the benefit of Braddock Baker; an act to establish an election precinct in Washington county; an act for the better regulation of the Southern College of Kentucky and the Harrodsburg Seminary, and an act to change an election precinct in Pike county, and for other purposes.

Ordered, That Mr. Flournoy be added to the committee for courts of justice.

Bills from the House of Representatives, of the following titles, to wit: 1. An act to amend the execution laws of this commonwealth; 2. an act providing for a change of venue in the case of William Wells, and 3. an act for the benefit of Harman Great-house, were severally read the first time.

Mr. Denny moved to lay the first bill on the table until the first day of June next; and the question being taken thereon, it was resolved in the affirmative—Yeas 16, nays 15.

The yeas and nays being required thereon by Messrs. Hickman and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barrett, Beauchamp, Dawson, Denny, Duncan, Forsythe, M'Attee, Marshall, Miller, Owens, Rudd, T. Ward, White and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Barbee, Blackburn, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Lyon, Morehead, Roper, Smith, J. Ward and Wickliff.

The rule being dispensed with, the second bill was read a second and third times.

Resolved, That the said bill do pass, and that Mr. Ewing inform the House of Representatives thereof.

And then the Senate adjourned.

SATURDAY, NOVEMBER 29, 1823.

The Senate assembled.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice have, according to order, had under consideration the petition of the Shelby county court, remonstrating against the opening of a road through said county, agreeably to an act entitled "an act to authorise the opening a State Road from Frankfort to Bowlinggreen," approved December 11, 1822, unless it is done at the expence of the State, and have come to the following resolution thereupon, to wit:

Resolved, That said law ought to be repealed.

They have also had under consideration the petition of the heirs of Thomas Crutchfield, deceased, praying that a law may be passed authorising a sale and conveyance of a tract of land which descended to them, and have come to the following resolution thereupon, to wit:

Resolved, That the said petition be rejected.

Which was twice read and concurred in.

Ordered, That said committee prepare and bring in a bill pursuant to the first resolution.

Mr. Owens from the select committee to whom was referred "a bill to amend the law relative to civil proceedings," reported the same with amendments, which were committed to Messrs. Marshall, Dawson, Roper, C. Allan, Owens and Flournoy.

Mr. Blackburn, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act providing for limitations in certain actions," reported the same without amendment, and the bill was read a third time.

Resolved, That the said bill do pass, and that Mr. T. Ward inform the House of Representatives thereof.

Bills from the House of Representatives, of the following titles, to wit: An act allowing further time for surveying head-right lands and registering the same, and an act for the benefit of Harman Greathouse, were severally read a second time; and the rule being dispensed with, they were read a third time.

Resolved, That the said bills do pass, and that Mr. Ewing inform the House of Representatives thereof.

A bill to alter the times of holding the common law terms of the Jefferson circuit court and for other purposes, and a bill to improve the navigation of the Kentucky river, were severally read a second time.

The former was ordered to be engrossed and read a third time, and the latter was committed to the committee of propositions and grievances.

Mr. Denny presented the report and petition of the Managers of the Louisville Hospital; which was read, and referred to Messrs. Denny, Roper and Marshall.

The military nominations made on the 26th and 27th inst. were taken up and committed to Messrs. T. Ward, Faulkner, Lyon and Davidson.

Mr. C. Allan read and laid on the table a resolution for appointing a committee to examine and report the situation of the Transylvania University.

The rule being dispensed with, it was taken up and concurred in as follows, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky, That a committee of three from the Senate and six from the House of Representatives, be appointed to examine the situation of Transylvania University; that it shall be the duty of the committee to examine and report in what manner and for what purposes the funds of that institution and the appropriations made at various times by the Legislature, since the first of January 1818, have been disposed of, and such other facts connected with the concerns of said institution, as the committee may deem important; and that the said committee have power to send for persons, papers and records, for their information.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

Mr. Roper, from the committee for courts of justice, reported a bill to repeal the law authorising the establishment of a State Road from Frankfort to Bowlinggreen, which was read the first time; and the rule being dispensed with, it was read a second time and committed to Messrs. Wickliff, Miller and White.

The Senate received a message from the House of Representatives, announcing the passage of an act to amend the act for the benefit of the wife and children of Benjamin Herndon, and an act to establish the county of Oldham.

Which were read the first time, and ordered to be read a second time; and the rule being dispensed with, the former bill was read a second time, and ordered to be read a third time.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration

of "a bill to enforce the obligation of contracts," and the same, with the amendments, was committed to Messrs. M'Afee, Flournoy, Howard, Towles, Blackburn, Denny and Roper.

On the motion of Mr. Owens, leave was given to bring in a bill to change the time of holding certain circuit courts; and Messrs. Owens, Ballinger and Worthington were appointed a committee to prepare and bring it in.

And then the Senate adjourned.

MONDAY, DECEMBER 1, 1823.

The Senate assembled.

The Lieutenant-Governor being absent, Mr. Ewing was elected Speaker for the occasion.

Mr. Barbee, from the joint committee of enrolments, reported that the committee had examined sundry enrolled bills of the following titles, to wit: An act to change an election precinct in Pike county, and for other purposes; an act for the benefit of Harman Greathouse; an act to provide for limitations in certain actions; an act extending the jurisdiction of the trustees of the town of Paris; an act allowing further time for surveying head-right lands and registering the same; an act providing for a change of venue in the case of William Wells; an act to establish the county seat for Morgan county; an act authorising the inhabitants of Morgan county to vote at their present seat of justice; an act for the better regulation of the Southern College of Kentucky, and for other purposes; an act for the benefit of Angus M'Phail; an act for the benefit of Mary Karr and her children; an act for the benefit of Braddock Baker, and an act to establish an election precinct in Washington and Calloway counties; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills.

Whereupon the Speaker of the Senate signed the same, and they were delivered to the joint committee, to be laid before the Governor; and after some time, Mr. Barbee, from said committee, reported that they had performed that duty.

The following bills were reported by the select committees to whom they were referred, to wit: By Mr. Wickliff, a bill to repeal the law authorising the establishment of a State Road from Frankfort to Bowlinggreen; and by Mr. Marshall, a bill to amend the law relative to civil proceedings; the latter with amendments.

The former bill, having been engrossed, was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act to repeal the law authorising the establishment of a State Road from Frankfort to Bowlinggreen."

Ordered, That Mr. Wickliff inform the House of Representatives thereof.

Ordered, That the public printers forthwith print 150 copies of the latter bill, with the amendments offered, for the use of the Legislature.

Mr. Denny read and laid on the table the following resolution, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky, That a committee of three from the Senate and six from the House of Representatives, be appointed to visit and examine the Louisville Hospital; whose duty it shall be, to ascertain and report the progress which has been made in the erection of the edifice, the amount of funds expended, the amount necessary to complete and furnish it, and such other information as shall be deemed important.

The rule being dispensed with, it was taken up, read and concurred in.

Ordered, That Mr. Denny inform the House of Representatives thereof.

The following report was laid before the Senate, to wit:

To the Members of the Senate and the House of Representatives.

The undersigned, Commissioners appointed by the Legislature of Kentucky, at their last session, for certain purposes, as are particularly set forth in the act of the 7th of December 1822, entitled "an act to establish a Lunatic Asylum," beg leave to report:

That, according to order, your commissioners proceeded to the purchase, and did purchase ten acres of land, on which there is a spring of water that never fails, embracing a suitable site for the establishment of a Lunatic Asylum, within one mile of Lexington, on which there was erected a skeleton of a house, well constructed for the purpose required. A deed to the same is made to the Commonwealth of Kentucky, by Mrs. Mary O. Russell, of Lexington, and recorded in the county court clerk's office.

Your commissioners beg leave further to report, that they proceeded, immediately after the purchase as above, to make all necessary and proper arrangements to have the house finished in a plain, substantial manner, and to erect such out-houses as are absolutely necessary for the use and comfort of those designed to occupy the same; that the work is now progressing with all possible dispatch, and it is confidently hoped the labor will be concluded by the 15th of December, at which time your commissioners will be enabled to make a detailed report of their expenditure of the ten thousand dollars appropriated for this purpose, all of which has been received, and will be expended in the finishing of the buildings, which, when done, will accommodate about one hundred or one hundred and twenty persons, short of the number re-

quired to be provided for by the act of assembly. By the addition of two wings, which were originally contemplated to be added, the building would accommodate about two hundred persons. The sum placed at our control was insufficient to effect all, and will barely conclude the project formed, which will not furnish room for more than one hundred and twenty persons.

The commissioners have made some calculations, as to the probable sum that would be required to make the two wings above referred to, together with the furniture necessary to be procured, &c. and from the best estimate they can make, it will cost the State ten thousand dollars more, to consummate the object they had in view. However, your commissioners forbear making further suggestions, as it is expected, and much desired, that your honorable body will forthwith appoint a committee, who will, as soon as convenient, visit the property and examine the buildings, which can be done at this period in the most satisfactory manner, as the work is just on the eve of being finished.

All which is respectfully submitted.

R. HIGGINS,
E. WARFIELD,
JOHN W. HUNT.

Lexington, November 21, 1823.

Mr. Roper moved the following resolution, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky,
That the committee appointed to examine and report the state and condition of Transylvania University, also report the state and condition of the Lunatic Hospital at Lexington.

The rule being dispensed with, it was taken up, twice read and adopted.

Ordered, That Mr. Roper inform the House of Representatives thereof, and request their concurrence.

The Senate received a message from the House of Representatives, announcing that they had adopted resolutions from the Senate, for appointing a joint committee to examine the Louisville Hospital, and a resolution for appointing a committee to examine the Transylvania University; and that they had passed bills of the following titles, to wit: 1. An act to amend an act authorising a lottery for opening a road from Beaver Creek Iron-Works to Prestonsburg; 2. an act to legalize the proceedings of the circuit and county courts of Morgan county, and 3. an act for incorporating the Hartford Bridge Company.

Which bills were read the first time, and ordered to be read a second time.

The rule being dispensed with, the second and third bills were read a second and third times.

Resolved, That the said bills do pass, and that Mr. Lyon inform the House of Representatives thereof.

Ordered, That Messrs. C. Allan, Denny and Ewing be appointed a committee on the part of the Senate, to examine and report the situation of the Transylvania University.

Ordered, That Messrs. C. Allan, Roper and Wickliff be appointed a committee on the part of the Senate, to examine and report the situation of the Louisville Hospital.

The following bills were reported, to wit:

By Mr. Owens—A bill for the benefit of Herbert G. Waggener, late sheriff of Adair county.

By Mr. Miller—A bill forming a new county out of parts of the counties of Hardin and Breckinridge.

And by Mr. Rudd—A bill allowing an additional justice of the peace to Nicholas county.

Which were severally read the first time; and the rule being dispensed with, they were read a second time, and the two former ordered to be engrossed and read a third time.

The first bill, having been engrossed, was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of Herbert G. Waggener, late sheriff of Adair county."

Ordered, That Mr. Owens inform the House of Representatives thereof, and request their concurrence.

The third bill was committed to Messrs. Beauchamp, Ballinger and Rudd; and after some time, Mr. Beauchamp reported the bill with amendments, which were concurred in, and the bill ordered to be engrossed and read a third time.

Mr. Wickliff read and laid on the table the following resolution, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky, That it is inexpedient to elect any person as a President or Director of the Bank of Kentucky or its branches, or the Bank of the Commonwealth or its branches, whose notes are lying over or in suit.

The rule being dispensed with, it was taken up, twice read and adopted.

Ordered, That Mr. Wickliff inform the House of Representatives thereof, and request their concurrence.

Ordered, That Mr. Owens be added to the committee raised for the purpose of preparing a bill to amend the law for distributing the Acts, Journals and Reports.

A bill from the House of Representatives, entitled "an act to amend the act entitled an act for the benefit of the wife and children of Benjamin Herndon," was read a second time; and the rule being dispensed with, it was read a third time.

Resolved, That the said bill do pass, and that Mr. Carneal inform the House of Representatives thereof.

An engrossed bill entitled "an act to change the common law terms of the Jefferson circuit court, and for other purposes," was read a third time, and committed to Messrs. Owens, Denny and Marshall; and after some time, Mr. Owens reported the bill with amendments, which were concurred in, and the bill read a third time.

Resolved, That the said bill do pass, and that the title be, "an act to alter the times of holding the common law terms of the Jefferson circuit court, and for other purposes."

Ordered, That Mr. Denny inform the House of Representatives thereof, and request their concurrence.

Mr. C. Allan read and laid on the table a resolution fixing on the 15th inst. for the final adjournment of the Legislature.

Ordered, That the select committee to whom were referred the military nominations made on the 26th and 27th of November, be discharged from the further consideration thereof; and they were severally taken up and read as follows, to wit:

Gentlemen of the Senate,

Since the last session of the General Assembly, sundry vacancies having taken place in the military department, which have been filled by appointments to expire with the present session, I nominate for your advice and consent, the following gentlemen, who have been so appointed, to be commissioned during good behaviour and their residence within the bounds of their respective commands, viz.

William Freeman, colonel of the 74th regiment, vice James Canady, resigned.

Solomon Mullikin, major of the same regiment, vice Richard L. Smith, promoted.

Richard L. Smith, lieutenant colonel of the same regiment, vice William Freeman, promoted.

James Thomas, lieutenant colonel of the 61st regiment, vice John C. Smith, rejected.

John M'Fadden, major of the same regiment, vice Andrew H. Cole, rejected.

Nathan S. Dallam, colonel of the 97th regiment, vice Charles Caldwell, resigned.

James C. Anderson, lieutenant colonel of the same regiment, vice Nathan S. Dallam, promoted.

John Lander, major of the same regiment, vice James C. Anderson, promoted.

Robert Lewis, colonel of the 39th regiment, vice James Robertson, resigned.

James L. Glenn, lieutenant colonel of the 102d regiment, vice John Mann, resigned.

James Mansfield, major of the same regiment, vice James L. Glenn, promoted.

William I. Morton, brigade quartermaster of the 11th brigade, vice Willis Loving, resigned.

James Rooney, colonel of the 85th regiment, vice Charles Allen, removed.

Joseph Scott, lieutenant colonel of the same regiment, vice James Rooney, promoted.

Alexander Dunlap, lieutenant colonel of the 106th regiment, vice Anderson Taylor, resigned.

John Steele, major of the 106th regiment, vice Alexander Dunlap, promoted.

John Williamson, colonel of the 12th regiment, vice Joseph Reading, resigned.

James Patterson, lieutenant colonel of the same regiment, vice John Williamson, promoted.

Benjamin B. Ballard, major of the same regiment, vice James Patterson, promoted.

Pleasant Sandridge, colonel of the 16th regiment, vice Charles F. Cabiness, removed.

Peter B. Atwood, lieutenant colonel of the same regiment, vice Pleasant Sandridge, promoted.

Joel Woodward, major of the same regiment, vice Peter B. Atwood, promoted.

Lemuel Williams, colonel of the 46th regiment, vice James Wilson, stricken off into another regiment.

John M. Emerson, lieutenant colonel of the same regiment, vice Lemuel Williams, promoted.

George H. Rowland, major of the same regiment, vice John M. Emerson, promoted.

John Wallace, colonel of the 8th regiment, vice James Dudley, promoted.

William C. Prewitt, lieutenant colonel of the 8th regiment, vice John Wallace, promoted.

Andrew S. Hughes, colonel of the 13th regiment, vice Henley Roberts, resigned.

Samuel Snap, lieutenant colonel of the same regiment, vice Henley Roberts, promoted.

William Newton, colonel of the 73d regiment, vice James Hollingshead, resigned.

William M. Sudduth, colonel of the 65th regiment, vice John Crockett, resigned.

Ephraim Caldwell, lieutenant colonel of the same regiment, vice William M. Sudduth, promoted.

Barnabas S. Johnson, major of the same regiment, vice Ephraim Caldwell, promoted.

Isaac W. Dabney, brigadier general of the 21st brigade, vice John H. Morris, resigned.

William F. Young, lieutenant colonel of the 50th regiment, vice William Biggers, resigned.

George H. Gerton, major of the same regiment, vice William F. Young, promoted.

William D. Harlan, major of the 94th regiment, vice George Murrell, refused to accept.

John Haddix, colonel of the 80th regiment, vice Elijah Combs, promoted.

Robert Brashears, lieutenant colonel of the 80th regiment, vice John Haddix, promoted.

Hardin Combs, major of the same regiment, vice Robert Brashears, promoted.

Paul Pigg, colonel of the 68th regiment, vice John Gilbert, resigned.

Claiborne W. White, lieutenant colonel of the same regiment, vice Elijah M'Whiter, resigned.

Jacob Oglesby, colonel of the 33d regiment, vice Isaac W. Dabney, promoted.

Jacob Newkirk, lieutenant colonel of the same regiment, vice Jacob Oglesby, promoted.

George Smith, major of the same regiment, vice James Rudy, resigned.

Robert M'Hatton, brigadier general of the 6th brigade, vice George Baltzell, resigned.

Alexander Tilford, colonel of the 77th regiment, vice Robert M'Hatton, promoted.

Thomas H. Bradford, lieutenant colonel of the same regiment, vice Alexander Tilford, promoted.

George W. Hall, major of the same regiment, vice Thomas H. Bradford, promoted.

Jarvis Jackson, lieutenant colonel of the 75th regiment, vice Joseph Parsons, resigned.

Benjamin Tuggle, major of the same regiment, vice Jarvis Jackson, promoted.

John Whiles, lieutenant colonel of the 44th regiment, vice George Dunagan, resigned.

William Perry, major of the same regiment, vice John Whiles, promoted.

John H. Miller, colonel of the 1st regiment, vice John Sutton, resigned.

William Guthrie, lieutenant colonel of the same regiment, vice Springer Augustus, deceased.

George W. Chambers, major of the same regiment, vice John H. Miller, promoted.

George Tye, colonel of the 39th regiment, vice Joseph Early, resigned.

Charles C. Carson, lieutenant colonel of the 79th regiment, vice William Fish, resigned.

Loftus Cook, major of the same regiment, vice Charles C. Carson, promoted.

Samuel Ireland, major general of the 6th division, vice James Simrall, cashiered.

Robert Martin, brigadier general of the 23d brigade, vice Benjamin Shacklett, resigned.

Ambrose Dudley, major of the 8th regiment, vice William C. Prewitt, promoted.

John Owens, major of the 17th regiment, vice Barnett Parish, promoted.

Reuben Adams, lieutenant colonel of the 100th regiment, vice John C. Bacon, resigned.

John Woolfolk, major of the same regiment, vice Reuben Adams, promoted.

Thomas Baird, brigadier general of the 2d brigade, vice Samuel Ireland, promoted.

Enoch Stout, major of the 35th regiment, vice Joseph Scott, promoted.

George Percy, colonel of the 18th regiment, vice James Ford, resigned.

Samuel Harbinson, lieutenant colonel of the same regiment, vice George Percy, promoted.

Andrew White, major of the same regiment, vice Samuel Harbinson, promoted.

James Roberts, colonel of the 38th regiment, vice William M. Rice, resigned.

Charles T. Chilton, lieutenant colonel of the 38th regiment, vice A. Mitchell, resigned.

Joseph Lecompte, major of the same regiment, vice James Roberts, promoted.

William Kennedy, colonel of the 48th regiment, vice David Perry, resigned.

Benjamin D. Beall, major of the same regiment, vice George M. Beall, promoted.

George M. Beall, lieutenant colonel of the same regiment, vice William Kennedy, promoted.

William Garnett, major of the 67th regiment, vice George Terrill, resigned.

Henry G. Tompkins, brigade quartermaster of the 21st brigade.

William Smith, major general of the 12th division, vice George Britain, resigned.

Joseph Eve, brigadier general of the 24th brigade, vice William Smith, promoted.

Thomas L. Tate, major of the 22d regiment, vice Hugh Innes, deceased.

Thomas Johns, major of the 98th regiment, vice William Reney, resigned.

Thomas Alexander, major of the 13th regiment, vice ——— Baker, resigned.

William Parcells, brigade inspector of the 23d brigade, vice David Moreman, resigned.

John H. Rudd, brigadier general of the 26th brigade, vice William Mountjoy, deceased.

Felix Huston, brigade quartermaster of the 23d brigade, vice Armstead H. Churchill, resigned.

John Payne, colonel of the 28th regiment, vice John H. Rudd, promoted.

Joseph Morris, lieutenant colonel of the same regiment, vice John Payne, promoted.

John Best, major of the same regiment, vice Joseph Morris, promoted.

JOHN ADAIR.

November 26th, 1823.

Gentlemen of the Senate,

I nominate for your advice and consent, Lewis Wilcoxon, to be commissioned colonel of the 33d regiment, vice William Morrow, deceased.

James Samuel, lieutenant colonel of the same regiment, vice Lewis Wilcoxon, promoted.

Edward Hessey, major of the same regiment, vice James Samuel, promoted.

John Young, colonel of the 27th regiment, vice Valentine Thompson, resigned.

James Allen, lieutenant colonel of the same regiment, vice John Young, promoted.

Solomon Reasoner, major of the same regiment, vice James Allen, promoted.

Robert Hunter, quartermaster of the 6th division, vice Benjamin F. Dupuy, resigned.

Henry Grider, inspector of the 9th division.

Ashur M. Graham, quartermaster of the same division.

Thomas Fletcher, major general of the 3d division, vice Martin D. Hardin, deceased.

William Pratt, lieutenant colonel of the 39th regiment, vice Samuel Pile, deceased.

Stephen D. B. Stewart, major of the same regiment, vice William Pratt, promoted.

JOHN ADAIR.

November 27th, 1823.

Resolved, That the Senate advise and consent to said appointments, except to those of Eli Stout, major of the 85th regiment, James Mansfield, major of the 102d regiment, and John H. Miller, colonel of the 1st regiment.

The two latter were committed to Messrs. White, M'Afee, Faulkner, Barbee and Davidson.

Ordered, That Messrs. Rudd and Davidson inform the Governor thereof.

The Senate received a message from the House of Representatives, announcing the passage of a bill from the Senate, entitled "an act for the benefit of Herbert G. Waggener, late sheriff of Adair county."

And then the Senate adjourned.

TUESDAY, DECEMBER 2, 1823.

The Senate assembled.

Mr. Lyon presented the petition of Isaac Darneille, praying the pre-emptive right to two quarter sections of land south-west of the Tennessee river, for the purpose of promoting education.

Mr. Cowan presented the petition of Tempe Stringer, praying a divorce from her husband, Jesse Stringer.

Mr. J. Ward presented the petition of sundry citizens of Mason county, praying the establishment of an election precinct in the eastern part of said county.

Mr. Bowman presented the petition of sundry citizens of Cumberland county, praying the repeal of the law abolishing imprisonment for debt.

Mr. Carneal again presented the petition of Joseph Cummins and others, praying the confirmation of a certain deed.

Which were severally read and referred, the first to the committee of public lands, the second to the committee of religion, the third to Messrs. J. Ward, Beauchamp and Faulkner, the fourth to the committee for courts of justice, and the fifth to Messrs. Carneal, M'Afee, Owens and Towles.

The question being taken on the reference of the fourth petition, it was resolved in the affirmative—Yeas 14, nays 13.

The yeas and nays being required thereon by Messrs. Beauchamp and Flournoy, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Barbee, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Lyon, Smith, Towles, J. Ward, White and Wickliff.

Those who voted in the negative, are, Messrs. Ballinger, Barrett, Beauchamp, Carneal, Dawson, Duncan, Ewing, Forsythe, M'Afee, Marshall, Miller, Morehead and Worthington.

Mr. Ballinger, from the joint committee appointed to examine the Register's office, made the following report, to wit:

The joint committee of the Senate and House of Representatives, appointed to examine and report the state of the land-office, have performed the duty required, and report as follows:

That they find, transcribed from the Virginia land-office, 273 bundles of surveys, neatly labelled, with an alphabet; also, 15 bundles containing the caveated and defective surveys on which grants have issued, 5 bundles caveated surveys, 2 bundles defective surveys, and 1 bundle surveys misplaced from their proper bundle—all neatly labelled, and recorded in 11 volumes, well bound, with a complete alphabet; 2 bundles of warrants located and misplaced; 1 bundle copies of wills; 16 volumes, the record of grants issued on the aforesaid surveys, in good order, with a complete alphabet. The record of military warrants from the Virginia land-office, in 2 volumes, with alphabets, in good order; a list of Virginia treasury warrants, in 2 volumes; the record of pre-emption warrants, in 1 volume, containing the record of warrants under the proclamation of 1763, with alphabets, and in good order. Commissioners' certificates granted in 1779 and 80, in 2 volumes, with alphabets, in good order. The sale books of non-residents' lands for the years 1800-1-2 and 4, have a new alphabet; the books are somewhat worn. The books in which the sales of 1805-6-7-8-9-10-11-12-13-14-15-16-17-18-19 and 20 are recorded, they find in good order, with alphabets. Two volumes in which surveys have been registered since 1792, in good order. The said surveys are tied up in 144 bundles, neatly labelled, with an alphabet. The record of those surveys, together with the record of some grants, is in 10 volumes, with an alphabet, in good order. The grants issued on the aforesaid surveys are in 19 volumes, to which there is an alphabet in good order. The surveys upon head-right claims are neatly registered in 3 volumes, with two alphabets, one of which is somewhat worn. The head-right plats and certificates of survey are filed in 306 bundles, neatly labelled, and recorded in 17 volumes, with two alphabets, in good order; the grants issued thereon, recorded in 26 volumes, well bound, with two alphabets, in good order. The land warrants issued under the act of 1800, the surveys and grants on the same, as also the Tellico surveys and grants, are in 2 volumes; they are registered in one volume, the original surveys tied up in 12 bundles, and neatly labelled, all in good order. Nine bundles certificates on which warrants have issued; 7 bundles certificates of sale of non-residents' lands, on which deeds have issued; one bundle attorney-general's opinions to the register; 5 bundles county court certificates; 8 bundles of caveats since 1792; 4 bundles caveated surveys since 1792; 2 bundles of surveys not registered for want of fees, since 1792; 1 bundle defective surveys

since 1792; 23 bundles vouchers on which the late Kentucky land warrants have issued—all neatly labelled and in good order. One volume containing the surveys under the proclamation of 1763, with an alphabet; 2 volumes of certificates granted in 1796, and 3 volumes in 1798, with alphabets. Anderson and Croghan's military entry books, in 2 volumes, with alphabets; the transcript of Lincoln entries, in two volumes, with an alphabet, in good order; May's entries (so called) transcribed in 5 volumes, with two alphabets, in good order; one volume of Green's deputy register of surveys made previous to June 1792; one volume relinquishments, in tolerable order; a list of Kentucky warrants issued under the act of 1814 and the subsequent acts, in 2 volumes, and the record of said warrants in 6 volumes. The original surveys made on said warrants are tied up in 148 bundles neatly labelled, and recorded in 8 volumes, well bound; the grants issued thereon, recorded in 13 volumes, well bound, with an alphabet in good order. Said surveys are neatly registered in 2 volumes, with an alphabet in good order. Three volumes in which caveats are recorded, with alphabets; 1 volume of commissioners' certificates granted in the year 1780, with an alphabet; 11 books of original entries from the county of Fayette; 1 book of original entries from the county of Mercer, 1 from Bourbon, 1 from Nelson, have been returned by the surveyors of said counties to the register's office, agreeably to the requisitions of an act approved February 12th, 1820; all of which books of entries are in order fit to be used, except the 11 books from the county of Fayette. Agreeably to the report of the committee made at the last session of the Legislature, the said 11 books of Fayette entries have, in part, been neatly transcribed in four books; and it is presumed that the 4th book will include the whole of the said 11 volumes: Wherefore, it is the unanimous opinion of your committee, that a law should pass legalizing said transcript, and that provision should be made therein for paying the Register of the land-office for said copies, and for completing the same.

From the Senate,

RICHARD BALLINGER,
JOHN H. RUDD.

From the House of Representatives,

SQUIRE TURNER,
BENJAMIN SELBY,
J. THOMAS,
JOHN WOOLFORD,
JOHN YOUNGER,
JEREMIAH COX,
JOSEPH STITH,
JOSEPH SECREST.

Mr. Lyon made the following report, to wit:

The joint committee to whom was referred the examination of the list of debtors to the Branch Bank of the Commonwealth of Kentucky at Princeton, have had the same under consideration, and submit the following report: That the debts (so far as they know and believe) are well secured, and that the institution appears to have been, in other respects, governed by the principles of the charter of incorporation.

From the Senate,

CHITTENDEN LYON,
YOUNG EWING.

From the House of Representatives,

THOMAS RALEIGH,
JOHN BERRY,
ENOCH PRINCE,
NATHAN O. HADEN,
ABSALOM ASHBY,
R. B. NEW.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Davidson—A bill to amend the law concerning constables.

And on the motion of Mr. Beauchamp—A bill for the benefit of a school in Washington county.

Messrs. Davidson, Bowman and Miller were appointed a committee to prepare and bring in the former, and Messrs. Beauchamp, Davidson and Flournoy the latter.

The following bills were reported, to wit:

By Mr. Flournoy—A bill to amend the law concerning roads.

By Mr. Carneal—A bill for the benefit of Joseph Cummins and others.

And by Mr. Towles—A bill to provide for the more speedy adjustment of the accounts of executors, guardians and administrators.

Which were read the first time, and ordered to be read a second time; and the rule being dispensed with, the first and second bills were read a second time, and the first committed to Messrs. Carneal, Flournoy, Towles and Bowman. The second was laid on the table.

Engrossed bills, to wit: A bill allowing additional justices to certain counties, and a bill for the formation of a new county out of parts of Hardin and Breckinridge, were severally read a third time, and the blanks in the latter filled.

Resolved, That the former bill do pass, and that the title be, "an act allowing additional justices to certain counties."

Ordered, That Mr. Howard inform the House of Representatives thereof, and request their concurrence.

The latter bill was laid on the table.

A bill from the House of Representatives, entitled "an act to amend an act authorising a lottery for opening a road from Beaver Creek Iron-Works to Prestonsburg," was read a second time, and committed to Messrs. Beauchamp, Lyon and Dawson.

The Senate received a message from the House of Representatives, announcing the passage of a bill entitled "an act to authorise the transcribing a book of entries in the office of the surveyor of Nelson county, and for other purposes," which was read the first time; and the rule being dispensed with, it was read a second time, and committed to Messrs. Morehead, Wickliff and Beauchamp.

The Senate received from the Governor, by Mr. Waggener, three messages in writing, containing nominations of officers; and the rule being dispensed with, they were taken up and read as follows, to wit:

Gentlemen of the Senate.

I nominate for your advice and consent, Garland Lillard, to be commissioned major of the 92d regiment of Kentucky militia, in the place of Archibald Elliott, resigned; to continue in office during good behaviour and his residence within the bounds of his command.

JOHN ADAIR.

December 2d, 1823.

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, viz:

Richard Taylor, jr. surveyor of the land set apart for the officers and soldiers of the Virginia state line.

Simeon S. Goodwin, notary public in and for the county of Jefferson.

Isaac Darnell, notary public in and for the county of Hickman.

David G. Cowan, notary public in and for the county of Mercer.

JOHN ADAIR.

December 2d, 1823.

Gentlemen of the Senate,

The office of Secretary of State having been vacated by the death of J. Cabell Breckinridge, Esq. since the last session of the General Assembly, and the vacancy having been filled during the recess of the Senate, by an appointment which will expire with its present session, I nominate for your advice and consent, Thomas B. Monroe, (who was so appointed) Secretary of State,

to be commissioned according to the provisions of the constitution, for the balance of the present gubernatorial term.

JOHN ADAIR.

December 2d, 1823.

Resolved, That the Senate advise and consent to said appointments.

Ordered, That Messrs. Davidson and Owens inform the Governor thereof.

The Senate received a message from the House of Representatives, announcing their concurrence in a resolution from the Senate, for appointing a joint committee to report the condition of the Lunatic Hospital, and an act for the benefit of John A. Stevenson and wife; also, the passage of bills of the following titles, to wit: 1. An act to amend an act entitled "an act for the benefit of Polly Simpson and her children;" 2. an act to declare the Wolf Lick fork of Muddy river navigable; 3. an act allowing additional constables to the counties of Washington and Casey; 4. an act allowing additional justices of the peace to certain counties; 5. an act for the benefit of David and Robert Griffith, and 6. an act to alter the time of electing representatives to Congress from this State.

Which bills were severally read the first time, and ordered to be read a second time; and the rule being dispensed with, the first five bills were read the second time, and ordered to be read a third time.

The first bill was read a third time.

Resolved, That the said bill do pass, and that Mr. T. Ward inform the House of Representatives thereof.

The fifth bill was committed to the committee for courts of justice.

The Speaker laid before the Senate a letter from G. F. H. Crockett, enclosing an address to the Legislature on the abolition of capital punishments; which was read, and referred to Messrs. Flournoy, Blackburn, Marshall, T. Ward, Howard, Carneal and McAfee.

And then the Senate adjourned.

WEDNESDAY, DECEMBER 3, 1823.

The Senate assembled.

The Lieutenant-Governor appeared and resumed his duties.

Mr. Barbee, from the joint committee of enrolments, reported that the committee had examined sundry enrolled bills and resolutions of the following titles, to wit: An act legalising the proceedings of the circuit and county courts of Morgan county; an act to amend an act entitled "an act for the benefit of the wife

and children of Benjamin Herndon; an act for incorporating the Hartford Bridge Company; an act for the benefit of Herbert G. Waggener, late sheriff of Adair county; a resolution for appointing a joint committee to examine the Louisville Hospital; a resolution fixing a day for the election of certain officers, and a resolution for appointing a committee to examine Transylvania University; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills and resolutions.

Whereupon the Speaker of the Senate signed the same, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee, from said committee, reported that they had performed that duty.

The Senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: 1. An act for the benefit of William and Manley Camron; 2. an act to amend the several laws now in force concerning the town of Maysville, in the county of Mason, and 3. an act to add part of the county of Fleming to the county of Nicholas.

Which were severally read the first time, and ordered to be read a second time; and the rule being dispensed with, the first and second bills were read a second time, and the first a third time.

Resolved, That the first bill do pass, and that Mr. Ewing inform the House of Representatives thereof.

The second bill was committed to Messrs. Flournoy, Carneal, Wickliff, J. Ward and Beauchamp.

A bill to provide for the more speedy adjustment of the accounts of executors, guardians and administrators, was read a second time, and committed to Messrs. Blackburn, Howard and Towles.

Mr. Lyon, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to amend an act authorising a lottery for opening a road from Beaver Creek Iron-Works to Prestonsburg," reported the same with an amendment, which was concurred in, and the bill read a third time.

Resolved, That the said bill, as amended, do pass, and that the title be, "an act to amend an act authorising a lottery for opening a road from Beaver Creek Iron-Works to Prestonsburg, and for other purposes."

Ordered, That Mr. Ewing inform the House of Representatives thereof.

The following bills were reported, to wit:

By Mr. Morehead—A bill for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes.

By Mr. Blackburn—A bill for the benefit of Robert Kinkaid, and a bill to change the terms of the Woodford circuit court.

Which were severally read the first time, and ordered to be read a second time; and the rule being dispensed with, the first bill was read a second time, and committed to Messrs. Ewing, Morehead and Towles.

Mr. Morehead, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to authorise the transcribing a book of entries in the office of the surveyor of Nelson county, and for other purposes," reported the same with an amendment, which was concurred in and the bill read a third time.

Resolved, That the said bill, as amended, do pass, and that Mr. Ewing inform the House of Representatives thereof.

The following bills were reported from the select committees to whom they were referred, to wit: By Mr. M'Affee, a bill to enforce the obligation of contracts; by Mr. Flournoy, a bill to amend the law concerning public roads; and by Mr. T. Ward, a bill to amend the militia law; with amendments to the first and third.

Mr. Towles moved a substitute for the one reported to the first, and the whole subject was laid on the table.

Ordered, That the public printers forthwith print 150 copies of said amendment, for the use of the Legislature.

The second bill was ordered to be engrossed and read a third time.

The question being taken on the passage of the third bill, it was resolved in the negative; and so the said bill was rejected.

Bills from the House of Representatives, of the following titles, to wit: 1. An act allowing an additional constable to the counties of Washington and Casey; 2. an act to declare the Wolf Lick fork of Muddy river navigable; 3. an act to alter the time of electing representatives to Congress from this state, and 4. an act allowing additional justices of the peace to certain counties, were severally read a second time.

The rule being dispensed with, the first and second bills were read a third time.

Resolved, That the said bills do pass, and that Mr. Ewing inform the House of Representatives thereof.

The fourth bill was committed to Messrs. Beauchamp, Bowman and Flournoy.

And then the Senate adjourned.

THURSDAY, DECEMBER 4, 1823.

The Senate assembled.

The Senate received a message from the House of Representatives, announcing that they had received official information that the Governor had approved and signed sundry enrolled bills and resolutions, which originated in that House, of the following titles, to wit: An act for the benefit of John M. Riggs and Joseph Paxton; an act to alter the mode of appointing trustees in the Madison seminary; a resolution authorising the Keeper of the Penitentiary to employ the convicts to work on the walls thereof; a resolution appointing joint committees to examine the reports of the Bank of the Commonwealth and its branches; an act to appoint commissioners to fix upon a permanent seat of justice for Pike county, and for other purposes; an act to authorise the sale of a part of the public square in the town of Cadiz; an act further to regulate the debt due the commonwealth for the sale of vacant lands; an act for the benefit of Henry Durham and John Ferguson; an act to authorise the Editors of "The Green River Correspondent," and "The Commonwealth," to insert certain advertisements therein; an act extending the jurisdiction of the trustees of the town of Paris; an act allowing further time for surveying head-right lands and registering the same; an act to provide for limitations in certain cases; an act providing for a change of venue in the case of William Wells; an act to change an election precinct in Pike county, and for other purposes; an act for the benefit of Harman Greathouse; an act for the benefit of Mary Karr and her children; an act for the benefit of Braddock Baker; an act to establish election precincts in Washington and Calloway counties; an act to establish the county seat for Morgan county; an act for the better regulation of the Southern College of Kentucky, and for other purposes; an act to authorise the inhabitants of Morgan county to vote at their present seat of justice.

Mr. Ballinger, from the joint committee of enrolments, reported that the committee had examined sundry enrolled bills of the following titles, to wit: An act to amend an act entitled "an act for the benefit of Polly Simpson and her children;" an act allowing an additional constables to the counties of Washington and Casey; an act for the benefit of William and Manley Camron, and an act to declare the Wolf Lick fork of Muddy river navigable; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills.

Whereupon the Speaker of the Senate signed the same, and they were delivered to the joint committee, to be laid before the

Governor; and after some time, Mr. Ballinger, from said committee, reported that they had performed that duty.

Mr. Towles, from the joint committee appointed to visit the Asylum of the Deaf and Dumb, made the following report, to wit:

The joint committee appointed by the Senate and House of Representatives to visit the Asylum for the education of the Deaf and Dumb, have performed that duty, and beg leave to report: That they remained in Danville, and visited the Asylum on two successive days, and were greatly gratified in witnessing the progress made by the pupils, whose facility and correctness in comprehending the signs made by the teacher, and in expressing their ideas, exceeded any thing that could have been anticipated by the most sanguine friends of the institution. All those who had been instructed in the Asylum for four months, wrote good hands, spelled correctly, and answered, promptly and correctly, numerous questions that were proposed to them by the teacher and members of the committee. They would, therefore, recommend the Asylum to the continued and extended patronage of the Legislature, as the only mode of redeeming this unfortunate portion of our species from the ignorance and stupidity to which they would be otherwise consigned by the partial hand of Nature, and, indeed, of transferring them from a state of almost mental blindness, to that of intellectual and accountable beings.

They beg leave further to report, that the countenances of the pupils indicated that they are happy and contented in the new situation to which they have been translated; that the Matron and Superintendent attend to their wants, and treat them with the most tender and affectionate care.

They cannot forbear to remark, that they deem the location of the Asylum singularly fortunate. The town and vicinity of Danville are well watered, and remarkably healthy; the wants of the institution can be as cheaply supplied there, as in other portions of the State; while the warm interest, and the liberality manifested towards the institution, by the citizens of the town and neighborhood, is as highly honorable to themselves, as it is advantageous to the institution.

From the Senate,

W. P. ROPER,
THOMAS TOWLES.

From the House of Representatives,

H. O. BROWN,
R. B. NEW,
THOMAS JOYES,
JOHN BERRY.

The Senate received a message from the House of Representatives, announcing that they had passed a bill from the Senate,

entitled "an act for the benefit of Joseph Ketchum," and the passage of bills of the following titles, to wit: An act providing for a change of venue in the case of Elijah Walton; an act to legalize the proceedings of the Simpson county court; an act for the benefit of Thomas Pitman, and an act for the benefit of Andrew Hemphill, of Jessamine county.

Mr. Ewing, from the select committee to whom was referred a bill for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes, reported the same with an amendment, which was concurred in, and the bill ordered to be engrossed and read a third time.

The following bills were reported, to wit:

By Mr. Davidson—A bill to amend the law concerning constables.

By Mr. Barbee—A bill appointing persons to view a way for a road from Greensburg to the Ohio river.

And by Mr. Lyon—A bill for the benefit of James Alcorn, sheriff of Livingston county.

Which were read the first time, and ordered to be read a second time; and the rule being dispensed with, the latter bill was read a second time, and committed to Messrs. Marshall, Lyon and Ewing.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of the report of the select committee on the petition of David Logan.

Several amendments were offered, and the whole subject laid on the table.

Mr. Flournoy presented the petition of Thomas P. Satterwhite, administrator of William Satterwhite, deceased, praying that a law may be passed for subjecting a lot belonging to the estate of Charles Hinch, deceased, for the purpose of paying a debt due to said administrator; which was read, and referred to the committee for courts of justice.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Blackburn—A bill to amend and reduce into one the several acts regulating executions.

And on the motion of Mr. Howard—A bill for the benefit of securities.

Messrs. Blackburn, T. Ward, Flournoy, M'Affee and Howard were appointed a committee to prepare and bring in the former, and Messrs. Howard, Towles and Marshall the latter.

And then the Senate adjourned.

FRIDAY, DECEMBER 5, 1823.

The Senate assembled.

Mr. C. H. Allen presented the petition of Edmund Bartlett, praying that a law may be passed authorising the Register of the land-office to make him a deed to a certain tract of land which was purchased at the Register's sale, and the certificate thereof lost.

Mr. Faulkner presented the petition of Edward Mobberly and others, praying that a law may be passed authorising the sale and conveyance of a certain tract of land in Garrard county. Also, the petition of John Williams, representing that he is prosecuted in the Fayette circuit court for a misdemeanor, and owing to the prejudices that exist against him in said circuit, he cannot have a fair trial there, and praying a change of venue.

Which were severally read, and referred to the committee for courts of justice.

The senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: 1. An act allowing an additional Director to the Branch Bank of the Commonwealth at Hartford; 2. an act for the benefit of William Scott; 3. an act for the benefit of Patsey Sproule, and 4. an act to authorise Leaven Luckett to complete the erection of a mill on Hinkston, and for other purposes.

Which bills were severally read the first time; and the rule being dispensed with, they were read a second time, and the three latter a third time.

Resolved, That the three latter bills do pass, and that Mr. Williams inform the House of Representatives thereof.

The first bill was committed to Messrs. Barbee, Wickliff and Worthington.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of a bill to provide for the sale of certain vacant lands west of the Tennessee river.

The following bills were reported, to wit:

By Mr. Marshall—A bill incorporating the Benson Bridge Company.

By Mr. Howard—A bill for the benefit of securities.

And by Mr. T. Ward—A bill giving Clerks further time to execute their office bonds.

Which were severally read the first time, and ordered to be read a second time; and the rule being dispensed with, the two former bills were read a second time.

The former was committed to Messrs. Davidson, C. H. Allen, Howard, Faulkner and Blackburn, and the latter was committed

to a committee of the whole house on the state of the commonwealth.

Ordered, That the public printers forthwith print 150 copies of the latter bill, for the use of the Legislature.

Mr. Marshall, from the select committee to whom was referred a bill for the benefit of James Alcorn, sheriff of Livingston county, reported the same with an amendment, which was concurred in; and the bill, having been engrossed, was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of certain sheriffs."

Ordered, That Mr. Owens inform the House of Representatives thereof, and request their concurrence.

Mr. Williams, from the joint committee of enrolments, reported that the committee had examined an enrolled bill entitled "an act for the benefit of William Scott," and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bill.

Whereupon the Speaker of the Senate signed the same, and it was delivered to the joint committee, to be laid before the Governor; and after some time, Mr. Williams reported that they had performed that duty.

Engrossed bills, to wit: A bill concerning public roads; a bill for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes, were read a third time.

Resolved, That the latter bill do pass, and that the title be, "an act for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes."

Ordered, That Mr. Ewing inform the House of Representatives thereof, and request their concurrence.

The former bill was laid on the table.

The following bills were read a second time, and ordered to be engrossed and read a third time, to wit: A bill to change the terms of the Woodford circuit court; a bill for the benefit of Robert Kinkaid; a bill for opening a road from Greensburg to the Ohio river, and a bill to amend the law concerning constables.

The two former, having been engrossed, were read a third time.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act to change the terms of the Woodford circuit court," and "an act for the benefit of Robert Kinkaid."

Ordered, That Mr. Blackburn inform the House of Representatives thereof, and request their concurrence.

Bills from the House of Representatives, of the following titles, to wit: 1. An act to legalize the proceedings of the Simpson county court; 2. an act for the benefit of Andrew Hemphill, of Jessamine county; 3. an act providing for a change of venue in the case of Elijah Walton, and 4. an act for the benefit of Thomas

Pitman, were read the first time and ordered to be read a second time.

The rule being dispensed with, the two first bills were read a second and third times.

Resolved, That the said bills do pass, and that Mr. Williams inform the House of Representatives thereof.

A bill from the House of Representatives, entitled "an act to repeal in part an act to amend an act regulating taverns and restraining tippling houses," was taken up, amended, and read a third time.

Resolved, That the said bill, as amended, do pass, and that Mr. Ewing inform the House of Representatives thereof.

Ordered, That the committee for courts of justice be discharged from the further consideration of a bill for the benefit of Joseph Cummins and others.

The said bill, having been engrossed, was read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 19, nays 2.

The yeas and nays being required thereon by Messrs. Carneal and Davidson, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Beauchamp, Blackburn, Bowman, Carneal, Cowan, Duncan, Ewing, Faulkner, Lyon, Miller, Owens, Rudd, Smith, Towles, T. Ward, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. Davidson and White.

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of Joseph Cummins and others."

Ordered, That Mr. Carneal inform the House of Representatives thereof, and request their concurrence.

And then the Senate adjourned.

SATURDAY, DECEMBER 6, 1823.

The Senate assembled.

The Senate received, by the Secretary of State, a message from the Governor, covering a preamble and resolutions of the General Assembly of the State of Tennessee, concerning the practice of Members of Congress meeting in Caucus and nominating persons to be voted for as President and Vice-President.

Mr. Miller presented the petition of Robert C. Slaughter, praying that a law may be passed allowing him compensation for apprehending a certain John Figgins and John Potter, who were charged with felony; which was read, and referred to Messrs. Miller, Dawson and Ewing.

Mr. Ewing moved the following resolution, to wit:

Resolved by the Senate, That the Sergeant-at-arms be directed forthwith to procure a sufficient number of comfortable seats in the gallery, for the accommodation of spectators, whenever they may think proper to attend the debates of this House.

Which was adopted.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice have, according to order, had under consideration a bill from the House of Representatives, entitled "an act for the benefit of David and Robert Griffith," and have come to the following resolution thereupon, to wit:

Resolved, That the said bill *ought to pass.*

Which was twice read and concurred in, and the bill was read a third time.

Resolved, That the said bill do pass, and that Mr. T. Ward inform the House of Representatives thereof.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of a bill from the House of Representatives, entitled "an act to prescribe the duties of the Judges of the Court of Appeals, and for other purposes."

The first section of the bill was read as follows, to wit:

"In future, it shall not be the duty of the Court of Appeals to deliver written opinions in cases involving matters of fact only, or principles of law previously settled by said court; but it shall be sufficient for said court to state the principle or principles upon which the case may be determined, and to refer to the case or cases in which the said principle or principles may have been recognized."

Mr. Owens moved to amend the bill by striking out said section, and it was resolved in the negative—Yeas 2, nays 24.

The yeas and nays being required thereon by Messrs. Owens and T. Ward, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger and Owens.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Barrett, Beauchamp, Blackburn, Bowman, Carneal, Cowan, Davidson, Faulkner, Forsythe, Hickman, Howard, Lyon, Marshall, Miller, Morehead, Roper, Rudd, Towles, J. Ward, T. Ward, Wickliff and Worthington.

The bill was then read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 22, nays 3.

The yeas and nays being required thereon by Messrs. Owens and Blackburn, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. G. Allan, C. H. Allen, Barrett, Beauchamp, Blackburn, Bowman, Carneal, Cowan, Davidson, Faulkner, Hickman, Howard, Lyon, Marshall, Miller, Morehead, Rudd, Towles, J. Ward, T. Ward, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. Ballinger, Dawson and Owens.

Resolved, That the said bill, as amended, do pass, and that Mr. T. Ward inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing that they had disagreed to the amendments made by the Senate to a bill for the benefit of George Payne.

An engrossed bill for the formation of a new county out of parts of the counties of Hardin and Breckinridge, was taken up.

Resolved, That the said bill do pass, and that the title be, "an act for the formation of a new county out of parts of the counties of Hardin and Breckinridge."

Ordered, That Mr. Miller inform the House of Representatives thereof, and request their concurrence.

The Senate received from the Governor, by Mr. Waggener, a message in writing, containing certain military nominations.

And then the Senate adjourned.

MONDAY, DECEMBER 8, 1823.

The Senate assembled.

The following bills were reported, to wit:

By Mr. Lyon—1. A bill to authorise the clerk of the Hickman county court to transcribe certain records; also, 2. a bill for the benefit of Charles Brandon and Leonard Kaler.

And by Mr. Carneal—3. A bill for the benefit of the heirs of Benjamin Beall and Janetta H. Beall, late of the county of Campbell.

Which were severally read the first time, and ordered to be read a second time; and the rule being dispensed with, the first and third bills were read a second time, and the first a third time, (having been engrossed.)

Resolved, That the first bill do pass, and that the title be, "an act to authorise the clerk of the Hickman county court to transcribe certain records."

Ordered, That Mr. Lyon inform the House of Representatives thereof, and request their concurrence.

The third bill was committed to the committee for courts of justice.

The following bills were reported from the select committees to whom they were referred, to wit: By Mr. Blackburn, 1. a bill

to provide for the more speedy adjustment of the accounts of executors, guardians and administrators; by Mr. Barbee, 2. a bill from the House of Representatives, entitled "an act allowing an additional Director to the Branch Bank of the Commonwealth at Hartford;" by Mr. Beauchamp, 3. a bill from the House of Representatives, entitled "an act allowing additional justices of the peace to certain counties;" and by Mr. Marshall, 4. an act to amend the act for the establishment of a State Road from Lexington to Ghent; with amendments to the three former, which were concurred in.

The three latter bills were read a third time.

Resolved, That the said bills do pass, the second and third as amended, and that the title of the second be, "an act allowing additional Directors to certain Branches of the Bank of the Commonwealth."

Ordered, That Mr. Wickliff inform the House of Representatives thereof.

The first bill was ordered to be engrossed and read a third time.

On the motion of Mr. Wickliff, leave was given to bring in a bill to divide the State into Electoral Districts; and Messrs. Wickliff, C. Allan and Bowman were appointed a committee to prepare and bring it in.

Ordered, That the report of the joint committee appointed to visit the Asylum for the tuition of the Deaf and Dumb, be referred to the general committee raised on that subject.

The Senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act for the benefit of Denese Fisheli, and an act for the benefit of the late sheriff of Adair county.

Which were severally read the first time; and the rule being dispensed with, they were read a second and third times.

Resolved, That the said bills do pass, and that the Clerk inform the House of Representatives thereof.

A bill from the House of Representatives, entitled "an act altering the time of electing representatives to Congress from this State," was read a third time, as follows, to wit:

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That so much of the act of the May session 1822, entitled "an act laying off the State into Congressional Districts," as directs that an election for representatives to Congress shall be held on the first Monday in August, in the year 1824, shall be, and the same is hereby repealed.

§ 2. *And be it further enacted*, That an election for representatives to Congress, shall be held on the first Monday in August 1825, and every two years thereafter, according to the provisions, and under the regulations of the before recited act.

And the question being taken on the passage thereof, it was resolved in the negative—Yeas 9, nays 19.

The yeas and nays being required thereon by Messrs. Beauchamp and Rudd, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Barbee, Blackburn, Davidson, Faulkner, Hickman, Roper, Towles, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Ballinger, Barrett, Beauchamp, Bowman, Carneal, Cowan, Dawson, Forsythe, Lyon, Marshall, Miller, Morehead, Owens, Rudd, J. Ward, T. Ward and Williams.

Ordered, That the Clerk inform the House of Representatives thereof.

The bill from the House of Representatives, entitled "an act for the benefit of George Payne," with the amendments made by the Senate, was taken up and read again.

Resolved, That the Senate recede from their first amendment; also, from the second, with an amendment; and that the Clerk inform the House of Representatives thereof.

Bills from the House of Representatives, of the following titles, to wit: An act to add part of the county of Fleming to the county of Nicholas, and an act for the benefit of Thomas Pitman, were read a second time, and the latter amended at the Clerk's table. The rule being dispensed with, the latter bill was read a third time.

Resolved, That the said bill, as amended, do pass, and that the Clerk inform the House of Representatives thereof.

The former bill was committed to the committee of propositions and grievances.

A bill giving clerks further time to execute their office bonds, was read a second time, and committed to Messrs. Wickliff, Carneal and Marshall.

Engrossed bills, to wit: A bill to amend the law concerning constables, and a bill appointing persons to view a way for a road from Greensburg to the Ohio river, were read a third time.

Resolved, That the former bill do pass, and that the title be, "an act to amend the law concerning constables."

Ordered, That the Clerk inform the House of Representatives thereof, and request their concurrence.

The latter bill was committed to Messrs. Owens, C. Allan and Davidson; and after some time, Mr. Owens reported the bill with an amendment, which was concurred in, and the bill ordered to be re-engrossed and read again.

A bill to provide for the sale of certain vacant lands west of the Tennessee river, was taken up; and the question being taken on engrossing and reading it a third time, it was resolved in the negative, and so the said bill was rejected.

And then the Senate adjourned.

TUESDAY, DECEMBER 9, 1823.

The Senate assembled.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice, to whom was referred a bill from the House of Representatives, making provision for the payment of a debt due to Joseph and Thomas Rotch, upon a contract made by them with the Keeper of the Penitentiary, have had that subject under consideration, and have examined into the origin and character of said claim, and beg leave respectfully to report, as the result of that examination, that the said Joseph and Thomas Rotch, in the year 1818, upon a contract with William Starling, then Keeper of the Penitentiary, sold and delivered to him, for the use of that institution, a large quantity of rolled slit iron, (say about 100 tons,) at the price of \$23,684 83, the whole of which sum was to have been paid upon the delivery of the iron; that about the time it was received, the Keeper paid \$14,684 83 of the price, and failing to pay the balance of \$9,000, gave to the Messrs. Rotches a written certificate or acknowledgment of that amount being due them, expressing that it was to bear interest from about the first of October 1818; that the said debt has ever since been recognized in the public accounts, and has been regularly reported by the Auditor to the Legislature, as a debt due, at every session from the year 1819 down to the present period. Your committee further report, that from the most unquestionable testimony, it appears that the whole transaction was perfectly fair and honorable; that the iron was sold at a fair price; that it was of excellent quality; that no part of it was misapplied by the Keeper; that it was manufactured into nails, at the Penitentiary, in the years 1818 and 1819, and that the nails probably manufactured out of said iron, amounted, according to official reports made to the Auditor, to the sum of \$35,000, the whole of which, has, no doubt, been long ago accounted for and paid into the treasury, and has yielded to the State a considerable profit on the purchase made as aforesaid. They further report, that after many unavailing applications to the Keeper of the Penitentiary, the Messrs. Rotches, on the 14th of January 1820, presented a petition to the House of Representatives of this State, praying that a law might pass, authorising and directing the payment of this claim; that their petition, however, was never finally acted upon, and that the debt due them remains still unsatisfied, although they have pursued it with diligence, and at very considerable trouble and expence.

The certificate or acknowledgment of the debt, given by the Keeper of the Penitentiary, and which accompanied the said petition, and was presented with it to the Legislature, has since been lost or mislaid.

Under all the circumstances of this case, your committee cannot hesitate to recommend that the bill ought to pass, and that the Messrs. Rotches are entitled to interest on the \$9,000, from the first of October 1818.

Which was laid on the table.

On the motion of Mr. Rudd, leave was given him to report a bill for the benefit of the heirs of Philip Buckner, deceased; which was read the first time and ordered to be read a second time.

Mr. Lyon presented the petition of sundry citizens of Hickman county, praying that a law may be passed authorising the opening of a road through a portion of said county at public expence.

The Speaker laid before the Senate a letter from the President of the Bank of Kentucky, covering a memorial of the Board, praying a re-organization of the institution.

Mr. Denny presented the remonstrance of sundry citizens of Jefferson and Henry counties, against the formation of a new county out of parts of Jefferson, Shelby and Henry. Also, the petition of James S. Bate, praying that he may be invested with the commonwealth's right of escheat to a certain tract of land in Breckinridge county, and that the venue in certain actions of ejectment pending in said circuit, wherein he and others are defendants, may be changed to some other circuit.

Which were severally read, and referred, the first to the committee of propositions and grievances; the second to Messrs. Marshall, Morehead and Carneal; the third was laid on the table, and the fourth committed to the committee for courts of justice.

Mr. Blackburn read and laid on the table a resolution proposing additional joint rules; and the rule being dispensed with, it was taken up, read and adopted, as follows, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky, That the following additional joint rules be adopted, to wit:

When bills or resolutions have passed either branch of the Legislature, and are amended by the other and reported back, such amendment shall be placed first in the orders of the day.

The bills or resolutions passed by one branch, shall be placed first in the orders of the day in the other branch, and have a preference to the bills or resolutions which originated in the latter.

Ordered. That Mr. Blackburn inform the House of Representatives thereof, and request their concurrence.

Mr. Dawson, from the joint committee appointed to examine the report of the Branch Bank of the Commonwealth at Bowling-green, made the following report, to wit:

The joint committee of the Senate and House of Representatives, appointed to enquire into and report the situation of the Branch of the Bank of the Commonwealth of Kentucky located at Bowlinggreen, have had the subject under consideration, and submit the following report:

From the best information they have been able to obtain, your committee are of opinion that the debts due to that Branch are well secured, with a few exceptions, and that the affairs of the institution have been judiciously and prudently managed in the general.

All of which is respectfully submitted.

From the Senate,

CHARLES MOREHEAD,
ANAK DAWSON,

From the House of Representatives,

J. THOMAS,
W. LYNCH,
J. HARRELD,
JOHNSON J. COCKRILL,
P. N. O'BANNON,
SAMUEL I. M'DOWELL,
A. R. MACEY.

Mr. Ewing read and laid on the table a resolution restricting the calls to be made by the Commonwealth's Bank on its debtors, to one per cent. a month on the sum due.

Mr. Roper, from the committee for courts of justice, to whom was referred "a bill for the benefit of Benjamin Beall and Janetta H. Beall, late of the county of Campbell," reported the same without amendment.

The bill, having been engrossed, was read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 17, nays 16.

The yeas and nays being required thereon by Messrs. Faulkner and Flournoy, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barrett, Beauchamp, Carneal, Denny, Ewing, Forsythe, Gorin, Lyon, Marshall, Owens, Rudd, Smith, J. Ward, T. Ward, White and Worthington,

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Barbee, Blackburn, Bowman, Cowan, Davidson, Dawson, Faulkner, Flournoy, Hickman, Miller, Morehead, Roper, Towles and Wickliff.

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of the heirs of Benjamin Beall and Janetta H. Beall, late of the county of Campbell."

Ordered, That Mr. Carneal inform the House of Representatives thereof, and request their concurrence.

The senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act to revive the law providing for the appointment of commonwealth's attorneys; an act for the benefit of the heirs and representatives of Benjamin South, deceased; an act for the benefit of Frederick Snider; an act more effectually to suppress gaming; and a resolution fixing a day for the election of a treasurer and other officers.

Mr. Hickman read and laid on the table a resolution concerning the election of Directors to the Bank of the Commonwealth and its branches.

Ordered. That Messrs. Lyon, Towles, Bowman, C. Allen, Carneal, Marshall, Denny, Howard and M'Affee, be added to the committee raised to bring in the bill for fixing the ratio and apportioning the representation for the next four years.

And then the Senate adjourned.

WEDNESDAY, DECEMBER 10, 1823.

The Senate assembled.

Messrs. Williams and Barbee, from the joint committee of enrolments, reported that the committee had examined sundry enrolled bills and a resolution of the following titles, to wit: An act to authorise Levin Luckett to complete the erection of a mill on Hinkston, and for other purposes; an act to legalise the proceedings of Simpson county court; an act for the benefit of Andrew Hemphill, of Jessamine county; an act for the benefit of Patsey Sproule; an act for the benefit of Joseph Ketchum; an act for the benefit of John A. Stevenson and wife; a resolution for appointing a joint committee to report the condition of the Lunatic Hospital; an act for the benefit of the late sheriff of Adair county; an act for the benefit of Denese Fisheli; an act for the benefit of David and Robert Griffith, and an act to amend the act for the establishment of a State Road from Lexington to Ghent on the Ohio river; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills and resolution.

Whereupon the Speaker of the Senate signed the same, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Williams, from said committee, reported that they had performed that duty.

Mr. Davidson presented the petition of E. and S. T. Logan, praying that a law may be passed authorising the sale and conveyance of a tract of land belonging to the heirs of David Logan, de-

ceased; which was read, and referred to the committee for courts of justice.

On the motion of Mr. Denny, leave was given to bring in a bill concerning the Louisville Hospital; and Messrs. Denny, Flournoy and Ewing were appointed a committee to prepare and bring it in.

The Senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act for the benefit of Jacob Butler, and an act to authorize the insertion of certain advertisements in "The News-Letter;" and that they had disagreed to the amendment made by the Senate, to a bill entitled "an act to provide for running the line between the counties of Knox and Harlan."

Mr. Davidson, from the joint committee appointed to examine and report the state of the Treasurer's office, made the following report, to wit:

The joint committee of the Senate and House of Representatives, appointed to examine the Treasurer's office, have performed that duty. They have, with great care and labor, examined the evidence and vouchers in support of each charge against the commonwealth, and receipts in the period of the last twelve months, commencing the 11th of October 1822, and ending the 10th of October 1823, inclusive. They find all the charges supported by legal vouchers, and the receipts correspond with the books of the treasury. They compared the general account, as stated in the Treasurer's books, with his report made to the Legislature this session, and find a perfect correspondence between the books and said report. Your committee, therefore, deem it unnecessary to make a detailed statement, as it would be but a repetition of the Treasurer's report.

Your committee are highly pleased with the manner in which that office is kept, and the correct and neat manner in which the business is done.

From the Senate,

JAMES DAVIDSON,
CHITTENDEN LYON.

From the House of Representatives,

RAPHAEL LANCASTER,
CHAS. B. ALEXANDER,
JOHN CHURCHILL,
WM. WORTHINGTON.

Mr. Ewing, from the committee of propositions and grievances, to whom was referred a bill to improve the navigation of the Kentucky river, reported the same with an amendment, which was concurred in.

Mr. Wickliff moved to lay the bill on the table until the first day of June next; and the question being taken thereon, it was resolved in the negative—Yeas 14, nays 18.

The yeas and nays being required thereon by Messrs. Wickliff and Dawson, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barrett, Bowman, Cowan, Dawson, Flournoy, Forsythe, Miller, Morehead, Owens, Rudd, Smith and Wickliff.

Those who voted in the negative, are, Messrs. Barbee, Beauchamp, Blackburn, Davidson, Denny, Ewing, Faulkner, Gorin, Lyon, M'Affee, Marshall, Roper, Towles, J. Ward, T. Ward, White, Williams and Worthington.

The bill was then read a third time as follows, to wit:

A Bill to improve the navigation of the Kentucky River.

The Legislature of Kentucky, being fully sensible of the advantages that would result to the good people of this commonwealth, by improving the navigable streams in this State, and being anxious that it should be done, but doubting what would be the most practicable mode of effecting an object so desirable, are willing, in a small degree, to trust it to individual enterprise, to make some improvement thereon; and Andrew Muldrow, of Woodford county, being anxious to make an experiment on some of the ripples in the Kentucky river, at his own expence and risk, if he does not materially benefit the navigation of said river, which fact shall be adjudged of by commissioners appointed by the Legislature: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Andrew Muldrow shall be, and he is hereby authorised to work on the said river, at such ripples as he may select above the town of Frankfort, and make such slopes and wings, so as to collect the water in said river, as will, in his opinion, improve the navigation thereof; and when he has completed the improvement at one or more of the ripples, he shall call upon Samuel Lewis, Benjamin Taylor, John Buford, Thomas B. Scott and Samuel M'Coun, who are hereby appointed inspectors to examine the work done by him, whose duty it shall be, or a majority of them, to say whether the navigation of the river at that place has been materially improved; and who shall also examine the accounts of said Muldrow, for money expended about said work; and if they shall be of opinion that the navigation is materially benefitted, they shall certify that fact, together with the amount of the money expended, to the Governor for the time being, who, if he is satisfied that the navigation has been improved by the work, and the charge is a reasonable one, shall certify the fact to the Auditor, together with the amount allowed; for which sum the Auditor shall issue his warrant to the Treasurer, which shall be paid out of any money in the treasury not otherwise appropriated: *Provided, however,* That the amount expended by the said Muldrow shall not exceed one thousand dollars.

The question being taken on engrossing and reading the said bill a third time, it was resolved in the negative—Yeas 17, nays 17.

The yeas and nays being required thereon by Messrs. Blackburn and Dawson, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Barbee, Beauchamp, Blackburn, Davidson, Denny, Ewing, Faulkner, Gorin, Lyon, M'Affee, Marshall, Towles, J. Ward, T. Ward, White, Williams and Worthington.

Those who voted in the negative, are, Messrs. C. H. Allen, Balingier, Barrett, Bowman, Carneal, Cowan, Dawson, Flournoy, Forsythe, Hickman, Miller, Morehead, Owens, Roper, Rudd, Smith and Wickliff.

And so the said bill was rejected.

The Senate received information, by the Secretary of State, that the Governor did, on the 5th inst. approve and sign enrolled resolutions, which originated in the Senate, of the following titles, to wit: A resolution for appointing a committee to examine the Transylvania University; a resolution fixing a day for electing certain officers, and a resolution for appointing a joint committee to examine the Louisville Hospital.

Ordered, That the Clerk inform the House of Representatives thereof.

The following bills were reported, to wit:

By Mr. Beauchamp—A bill for the benefit of a school in Washington county.

By Mr. T. Ward—A bill further to regulate the duties of clerks.

By Mr. Owens—A bill to regulate the duties of certain officers. Also, a bill for the benefit of Littleberry Batchelor.

And by Mr. Ewing—A bill for the benefit of Elijah Veach and William Durrington.

Which were read the first time, and ordered to be read a second time.

Mr. Roper, from the committee for courts of justice, made the following reports, to wit:

The committee for courts of justice have, according to order, had under consideration the petition of Edward Mobberly and others, praying that a law may be passed authorising the sale and conveyance of a small tract of land in Garrard county, and have come to the following resolution thereupon, to wit:

Resolved, That said petition *be rejected*.

They have also had under consideration the motion for leave to bring in a bill for the benefit of Archelaus Perrin, and have come to the following resolution thereupon, to wit:

Resolved, That leave ought not to be granted to bring in said bill.

The committee for courts of justice have, according to order, had under consideration, the petition of Thomas P. Satterwhite, praying that a law may be passed subjecting a certain lot of ground in Lexington, belonging to the heirs of Charles Hinch, to the payment of a debt due from the latter to the father of the petitioner, and have come to the following resolution thereupon, to wit:

Resolved, That the said petition is reasonable.

Which were twice read and concurred in.

Ordered, That said committee prepare and bring in a bill pursuant to the latter resolution.

Mr. Marshall read and laid on the table the following resolution, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky, That the President of the Bank of Kentucky be, and he is hereby required, forthwith to communicate to the Legislature, whether, in any case, and if in any, what cases, and to what amount, and under what circumstances, the notes of individuals, due to the institution over which he presides, and payable either at the mother bank or at any branch of said bank, have been transferred to creditors of said bank; and also, report the names of the individuals whose notes have been thus transferred, and of the creditors to whom transferred.

The rule being dispensed with, it was taken up, twice read and concurred in.

Ordered, That Mr. Ewing inform the House of Representatives thereof, and request their concurrence.

The Senate received a message from the House of Representatives, announcing that they had received official information that the Governor did, on the 5th instant, approve and sign enrolled bills, which originated in that House, of the following titles, to wit: An act for the benefit of William Scott; an act to amend an act entitled "an act for the benefit of the wife and children of Benjamin Herndon;" an act for incorporating the Hartford Bridge Company; an act to legalize the proceedings of the circuit and county courts of Morgan county; an act for the benefit of Angus McPhail; an act for the benefit of William and Manley Camron; an act allowing additional constables to the counties of Washington and Casey; an act to declare the Wolf-Lick fork of Muddy river navigable, and an act to amend an act entitled "an act for the benefit of Polly Simpson and her children."

The following resolution from the House of Representatives was taken up, to wit:

Resolved, (the Senate concurring,) That the election of Treasurer and other officers be deferred until the 18th inst.

Whereupon Mr. Ewing moved the following resolution in lieu thereof, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky, That the resolution fixing on the 10th inst. for the election of a Treasurer, Public Printers, Presidents and Directors of the Bank of the Commonwealth and its branches, and a President and Directors of the Bank of Kentucky, be rescinded; and that they will, on the 18th inst. proceed to the election of said officers.

Which was adopted.

Ordered, That Mr. Ewing inform the House of Representatives thereof, and request their concurrence.

Mr. Flournoy, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to amend the several laws now in force concerning the town of Maysville, county of Mason," reported the same without amendment, and it was read a third time.

Resolved, That the said bill do pass, and that Mr. Ewing inform the House of Representatives thereof.

A bill from the House of Representatives, entitled "an act to establish the county of Oldham," was taken up.

And then the Senate adjourned.

THURSDAY, DECEMBER 11, 1823.

The Senate assembled.

Mr. Marshall presented the petition of John Shields, praying that a law may be passed relinquishing the Commonwealth's right to a certain tract of land lying in Franklin county, on Benson.

Mr. Faulkner presented the petition of sundry citizens of Mercer and Garrard counties, praying that a law may be passed declaring a part of Dick's river navigable.

Which were read and referred, the former to the committee of propositions and grievances, and the latter to Messrs. Faulkner, Davidson and McAfee.

Mr. Ewing, from the committee of propositions and grievances, made the following report, to wit:

The committee of propositions and grievances have, according to order, had under consideration the petition of sundry citizens of Bourbon county, praying to be added to the county of Montgomery, and have come to the following resolution thereupon, to wit:

Resolved, That said petition is reasonable.

Which was twice read and concurred in.

Ordered, That said committee prepare and bring in a bill pursuant to said resolution.

Mr. Ewing also reported a bill from the House of Representatives, entitled "an act for adding a part of Fleming to Nicholas," without amendment, which was read a third time.

Resolved, That the said bills do pass, and that Mr. Rudd inform the House of Representatives thereof.

Mr. T. Ward, from the joint committee appointed to examine the Auditor's office, made the following report, to wit:

The joint committee of the Senate and House of Representatives, appointed to examine the Auditor's office, have performed that service. They have, with great care and labor, examined all the evidence and vouchers in support of each charge against the State, in the year ending the 10th day of October 1823; and the committee having been arranged into sub-committees, each sub-committee had their duties assigned them; and from the reports made by the sub-committees, we are all cheerful to state, that every charge and voucher was found to perfectly correspond, throughout the whole examination in the manner here set forth. They also find that the receipts correspond with the books of the treasury. They compared the general account, as stated in the Auditor's books, with his report made to the Legislature on the third day of the present session, and they find a perfect correspondence between the books and said report. They, therefore, deem it unnecessary to accompany this report with a detailed statement of the particular items and charges, as it would be but a repetition of the Auditor's report.

Your committee think it due to that department, to state, that the whole business has been done with great accuracy, neatness, and in an excellent manner.

From the Senate,

THOMSON WARD,
THOMAS TOWLES,
JOHN L. HICKMAN.

From the House of Representatives,

JOHN EMERSON,
WILLIAM MITCHELL,
LEONARD H. LYNE,
SILAS WOODWARD,
N. O. HADEN,
JOHN S. LAUGHLIN.

Ordered, That the select committee to whom was referred the nomination of John H. Miller, as colonel of the 1st regiment, be discharged from the further consideration thereof, and that the same lie on the table.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of a bill appropriating the vacant lands lying east of the Tennessee river and between the Tennessee line and 36 degrees 30 minutes north; and it was ordered to be engrossed and read a third time.

Ordered, That Mr. Howard be excused from serving on the committee raised for the purpose of fixing the ratio and apportioning

the representation for the ensuing four years, and that Mr. Ballinger be added thereto.

The following bills were reported, to wit:

By Mr. Denny—A bill concerning the Louisville Hospital.

By Mr. Miller—A bill for the benefit of Robert C. Slaughter.

And by Mr. Ewing—A bill to add a part of Bourbon to Montgomery county.

Which were severally read the first time, and ordered to be read a second time; and the rule being dispensed with, the first and second were read a second time, and the third a third time, (having been engrossed.)

Resolved, That the third bill do pass, and that the title be, "an act to add a part of Bourbon to Montgomery county."

Ordered, That Mr. Williams inform the House of Representatives thereof, and request their concurrence.

Ordered, That the public printers forthwith print 150 copies of the first bill, for the use of the Legislature.

An engrossed bill to amend the law concerning roads, was taken up; and the question being taken on the passage thereof, it was resolved in the negative, and so the said bill was rejected.

A bill from the House of Representatives, entitled "an act to establish the county of Oldham," was read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 30, nays 4.

The yeas and nays being required thereon by Messrs Denny and Roper, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Blackburn, Bowman, Carneal, Cowan, Davidson, Dawson, Ewing, Faulkner, Flournoy, Forsythe, Gorin, Lyon, M'Afee, Miller, Morehead, Roper, Rudd, Smith, Towles, J. Ward, T. Ward, Wickliff, Williams and Worthington.

Those who voted in the negative, are, Messrs. Denny, Hickman, Owens and White.

Resolved, That the said bill do pass, and that Mr. C. H. Allen inform the House of Representatives thereof.

A bill from the House of Representatives, entitled "an act for the benefit of Joseph and Thomas Rotch, of Massachusetts," was taken up, and committed to Messrs. Flournoy, Beauchamp, Wickliff, Gorin and Hickman.

And then the Senate adjourned.

FRIDAY, DECEMBER 12, 1823.

The Senate assembled.

Mr. Gorin presented the petition of Robinson P. Beauchamp, praying that a law may be passed directing the Bank of the Commonwealth to credit the Bank of Kentucky for the sum of \$9,935 of her paper, and pay to him \$900, which sums of money have been destroyed by casualty.

Mr. Carneal presented the petition of Chasteen Scott, guardian of Cordelia and Martha Birdwhistle, praying that a law may be passed authorising the sale of a slave belonging to his wards.

Mr. T. Ward presented the petition of James and Robert Childers, infants, praying that a law may be passed authorising the sale and conveyance of a small tract of land belonging to them.

Which were severally read and referred, the former to the committee of propositions and grievances, and the two latter to the committee for courts of justice.

Mr. Barbee, from the joint committee of enrolments, reported that the committee had examined sundry enrolled bills of the following titles, to wit: An act to amend the several laws now in force concerning the town of Maysville, county of Mason; an act to establish the county of Oldham, and an act to add part of the county of Fleming to the county of Nicholas; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills.

The following bills were reported, to wit:

By Mr. Owens—A bill to alter the time of holding certain circuit courts.

By Mr. T. Ward—A bill to reduce the number of Directors in the Bank of Kentucky.

And by Mr. Denny—A bill making provision for finishing the Louisville Hospital.

Which were severally read the first time; and the rule being dispensed with, they were read a second time, and the first a third time, (having been engrossed.)

Resolved, That the said bill do pass, and that the title be, "an act to alter the time of holding certain circuit courts."

Ordered, That Mr. Owens inform the House of Representatives thereof, and request their concurrence.

The second bill was committed to Messrs. Marshall, Carneal, Morehead and T. Ward, and the third was laid on the table.

Mr. M'Affee, from the joint committee to whom was referred the report of the committee appointed to visit the Asylum for the education of the Deaf and Dumb, made a report; which was twice read and laid on the table.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Williams—A bill to raise a revenue from clerks' offices, and for other purposes.

And on the motion of Mr. M'Afee—A bill to repeal so much of all laws as allows a two years' replevin on original contracts and causes of action, from and after the first day of June next.

Messrs. Williams, Bowman and C. Allan were appointed a committee to prepare and bring in the former, and Messrs. M'Afee, Roper and Worthington the latter.

The Senate received a message from the House of Representatives, announcing the passage of a bill from the Senate, entitled "an act for the benefit of the heirs of Benjamin Beall and Janetta H. Beall, late of the county of Campbell;" and that they had passed bills of the following titles, to wit: An act for the benefit of James Kirkham's heirs; an act for the benefit of Frederick Ridgely, and for other purposes, and an act to amend an act to establish a seminary of learning in the county of Hart; and had adopted a resolution in relation to the Penitentiary.

Mr. Wickliff, from the select committee to whom was referred a bill giving clerks further time to execute their office bonds, reported the same with an amendment, which, together with the bill, was laid on the table.

The resolution fixing on the 15th inst. for an adjournment of the Legislature, was taken up and amended, by striking out the "15th," and laid on the table.

A bill to revive and continue in force part of the act concerning the Bank of Kentucky and the Bank of the Commonwealth of Kentucky, approved December 5th, 1822, together with the proposed amendments, was taken up. The said bill was read as follows, to wit:

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the President and Directors of the Commonwealth's Bank, shall, on the first Monday in January, April and October, in the year 1824, cause to be made out duplicate lists of all the money received by the mother Bank at Frankfort, for calls and voluntary payments; one of which lists shall be retained in Bank, and the other filed with the Auditor.

§ 2. *Be it further enacted*, That it shall be the duty of the President and Directors of the several branches of the Bank of the Commonwealth of Kentucky, to cause to be made out, (on the first Monday of January, April and October, in the year 1824,) an estimate of all the money which shall have been received for calls and for voluntary payments; which amount they shall, within fifteen days after the first Monday in January, April and October, remit in notes of the largest denomination then on hand, to the Cashier of the mother Bank in Frankfort. The presidents of said several branches, shall cause to be made out duplicate lists of the

notes thus remitted, shewing their number and amount, one of which lists shall accompany the notes thus remitted, and the other be retained in the Branch

§ 3. *Be it further enacted*, That the President of the Bank of the Commonwealth shall, on the first Monday of February, the first Monday in June, and the first Monday in November, in the year 1824, in the presence of the Directory, and of the Auditor of public accounts and Treasurer, proceed to cancel, by burning, all the paper of said bank, which shall have been received from time to time as aforesaid: *Provided, however*, That there shall not be a greater sum of the paper of said bank cancelled by burning, than five hundred thousand dollars, prior to the first day of December, in the year 1824.

§ 4. *Be it further enacted*, That from and after the passage of this act, it shall not be lawful for the officers of the Commonwealth's Bank, or any of its branches, to emit any more paper by way of loan, except to a new Director, under the provisions of the original charter.

Mr. Blackburn moved to amend the third section thereof, to read as follows, to wit:

§ 3. The President of the Bank of the Commonwealth shall, on the first Monday of February, the first Monday in June, and the first Monday in November, in the year 1824, in the presence of the Directory, the Auditor of Public Accounts and Treasurer, write or cause to be written on each note, "*Withdrawn, this — day of — 1824,*" (filling up the blanks,) and cause to be made out two lists showing the amount of paper so withdrawn, one of which lists shall remain in the bank, and the other, together with the notes withdrawn, he shall deliver to the Treasurer of this State, and take his receipt therefor, who shall safely keep the notes, and lay the list so received by him before the next Legislature, within the first ten days of their session.

And the question being taken thereon, it was resolved in the negative—Yeas 11, nays 18.

The yeas and nays being required thereon by Messrs. Williams and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are Messrs. Barbee, Blackburn, Dawson, Flournoy, Forsythe, Hickman, M'Affee, Smith, White, Williams and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Ballinger, Beauchamp, Bowman, Cowan, Davidson, Duncan, Ewing, Faulkner, Gorin, Lyon, Marshall, Miller, Morehead, Owens, Towles, J. Ward and T. Ward.

Mr. Marshall then moved the following amendment in lieu of the bill, to wit:

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the President and Directors of the Bank of the Com-

monwealth of Kentucky are hereby authorised to discount well secured business paper, due upon real transactions, which has not more than ninety days to run before maturity. The discounts hereby authorised to be made, shall be apportioned among the counties of each bank district, according to the terms of the original charter, and no discount greater than \$ shall be granted to any individual or co-partnership: *Provided, however,* that it shall be the duty of the said President and Directors to make no discount upon such business paper, which may prevent the withdrawal from circulation and consumption by burning, of at least one per cent. per month, upon the whole sum originally issued by said bank and branches: *And provided,* that it is hereby made the duty of the President and Directors of the principal bank, under the provisions of the act entitled "an act concerning the Bank of Kentucky and the Bank of the Commonwealth of Kentucky," approved December 5th, 1822, to withdraw from circulation and consume by burning, one per cent per month of the notes of said bank and branches, upon the whole amount of the original sum issued by said institution, at the times, and in the manner stipulated by the before recited act, until the sum in circulation be reduced to \$1,500,000.

And the question being taken thereon, it was resolved in the negative—Yeas 16, nays 18.

The yeas and nays being required thereon by Messrs. Blackburn and Davidson, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Beauchamp, Dawson, Duncan, Ewing, Forsythe, Gorin, Lyon, McAfee, Marshall, Miller, Morehead, Owens, Rudd, Smith and T. Ward.

Those who voted in the negative, are, Messrs. C. Allan, Barbee, Barrett, Blackburn, Bowman, Carneal, Cowan, Davidson, Faulkner, Flournoy, Hickman, Roper, Towles, J. Ward, White, Wickliff, Williams and Worthington.

Mr. Marshall then moved an amendment in lieu of the bill, which was adopted.

Mr. Blackburn moved further to amend the bill, by adding thereto the following section, to wit:

Be it further enacted, That from and after the passage of this act, it shall not be lawful for the officers of the Commonwealth's Bank or any of its branches, to emit any more paper by way of loan, except the Literary Fund or to a new Director, under the provisions of the original charter.

And the question being taken thereon, it was resolved in the negative—Yeas 10, nays 25.

The yeas and nays being required thereon by Messrs. Blackburn and Carneal, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Blackburn, Faulkner, Hickman, Owens, Roper, Rudd, White, Williams and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Barbee, Barrett, Beauchamp, Bowman, Carneal, Cowan, Davidson, Dawson, Denny, Duncan, Ewing, Flournoy, Forsythe, Gorin, Lyon, McAfee, Marshall, Miller, Morehead, Smith, Towles, J. Ward, T. Ward and Wickliff.

The bill was then further amended, and ordered to be engrossed and read a third time.

The Senate received, by the Secretary of State, a written message from the Governor, requesting leave to withdraw the nomination of John H. Miller as colonel of the first regiment.

And then the Senate adjourned.

SATURDAY, DECEMBER 13, 1823.

The Senate assembled.

Mr. Smith presented the petition of the heirs of John Snell, deceased, praying that a law may be passed authorising the sale of a tract of land, agreeably to the conditions of a deed of trust executed to two of the heirs.

Mr. Dawson presented the petition of Betsey Justice, praying a divorce from her husband, Frederick Justice. Also, the petition of Willis Mitchell, administrator of Wyatt Mitchell, deceased, praying that a law may be passed authorising a sale and conveyance of a tract of land, for the payment of his debts.

Which were read and referred, the first and third to the committee for courts of justice, and the second to the committee of religion.

Mr. Flournoy, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act for the benefit of Joseph and Thomas Rotch," made the following report, to wit:

The select committee to whom was referred a bill from the House of Representatives, entitled "an act for the benefit of Joseph and Thomas Rotch, of Massachusetts," having caused to come before them several witnesses, and having examined the whole vouchers and papers connected with this transaction, report as follows:

That the contract was entered into by William Starling, Keeper of the Penitentiary, without the acting Governor's approbation; that on application to him, he refused his consent to the contract, and would not agree to sanction the measure or make any order for its ratification; that John H. Hanna made sale to the Keeper, as a joint and equal partner of the Messrs. Rotches, and not as

agent; and that he sold to Starling upon the responsibility of the Penitentiary. Your committee, therefore, do not see any legal obligation upon the State of Kentucky to pay and satisfy the claim of Messrs. Rotches.

But they further state and report, that there is clear proof of a balance of \$9,000 being due to Joseph and Thomas Rotch upon the contract aforesaid; that it was made and entered into when dollars were considered specie, and that it has been due from the first of September 1818; that the iron was all delivered at the Penitentiary, and all manufactured into nails. They do not consider it certain, that the report of \$35,623. 36 worth of nails, as made out by the Auditor, to have been accounted for in the years 1818 and 19, was made out of the iron in question; but, on the contrary, a part certainly was not, as some are reported to have been made before the iron, or any part of it, was received at the Penitentiary, and a considerable portion was of wrought nails. Besides, it appears that \$20,000 and upwards was laid out and expended for iron, the year before, up to the month of October in that year, of which but little remained in iron; but what amount in nails, was not ascertainable.

Your committee consider the contract to have been wholly unauthorised, and in direct violation of the law of the land; but as the property has been received and converted to the use of the State, they offer no opinion as to the moral obligation, or how far the Legislature are in conscience bound to pass a law for the payment of a debt thus created, where both parties knew, or might have known, that it was done contrary to the law of the land and the rules then recently prescribed by the act of the Legislature, governing this very principle and other affairs of the Penitentiary.

M. FLOURNOY, *Chairman*.

JOHN GORIN,

JEROBOAM BEAUCHAMP,

JOHN L. HICKMAN,

MARTIN H. WICKLIFF.

The amendment to the bill, reported by the committee for courts of justice, was then concurred in with an amendment, and the bill read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 25, nays 10.

The yeas and nays being required thereon by Messrs. Faulkner and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, C. H. Allen, Barbee, Barrett, Blackburn, Cowan, Davidson, Denny, Duncan, Ewing, Forsythe, Hickman, Lyon, M'Affee, Marshall, Owens, Roper, Rudd, Smith, Towles, J. Ward, T. Ward, White, Wickliff and Williams.

Those who voted in the negative, are, Messrs. Ballinger, Beauchamp, Bowman, Dawson, Faulkner, Flournoy, Gorin, Miller, Morehead and Worthington.

Resolved, That the said bill, as amended, do pass, and that Mr. T. Ward inform the House of Representatives thereof.

Mr. White, from the select committee to whom were referred certain military nominations, made the following report, to wit:

The select committee to whom were referred the nominations of Enoch Stout and James Mansfield, have had the same under consideration, and beg leave to submit the following report:

We are authorised to say, that Stout has resigned. In the case of Mansfield, from the evidence before us, we believe his nomination ought to be confirmed. All of which is respectfully submitted.

Which was concurred in.

The message of the Governor, received on yesterday, was taken up and read as follows, to wit:

Gentlemen of the Senate,

The nomination of John H. Miller colonel of the first regiment, was made on the supposition that he was in commission under the *pro tem.* appointment, no report or information having been received in relation to him. It has since appeared that he was not in office. I, therefore, request permission to withdraw the nomination.

Respectfully, yours, &c.

JOHN ADAIR.

December 12th, 1823.

Resolved, That leave be given to withdraw said nomination.

Ordered, That Messrs. Davidson and Ewing inform the Governor thereof.

Mr. Williams, from the joint committee of enrolments, reported that the committee had examined an enrolled bill entitled "an act for the benefit of the heirs of Benjamin Beall and Janetta H. Beall, late of the county of Campbell," and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bill.

The Speaker of the Senate then signed said bill and those reported on yesterday, and they were delivered to the joint committee, to be laid before the Governor; and after some time, Mr. Williams reported that they had performed that duty.

The Senate received information, by the Secretary of State, that the Governor did, on the 11th inst. approve and sign enrolled bills and a resolution, which originated in the Senate, of the following titles, to wit: An act for the benefit of Joseph Ketchum; an act for the benefit of John A. Stevenson and wife, and a resolu-

tion for appointing a joint committee to report the condition of the Lunatic Hospital.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing the adoption of resolutions in relation to the Asylum for the tuition of the Deaf and Dumb, and resolutions requesting the attention of the general government to the subject of slaves belonging to the citizens of the United States, who may have escaped into Canada; and the passage of bills of the following titles, to wit: An act establishing election precincts in the counties of Fayette, Harrison and Lawrence, and for other purposes, and an act supplemental to the act establishing the county of Oldham; and that they had disagreed to the amendment made by the Senate, to a bill entitled "an act for the benefit of Joseph and Thomas Rotch, of Massachusetts."

The amendment to the latter bill was taken up and again read.

Resolved, That the Senate recede from said amendment, and that Mr. Ewing inform the House of Representatives thereof.

Mr. M'Affee, from the select committee appointed for that purpose, reported a bill to repeal all laws allowing a replevin of two years on contracts entered into after the first day of June next; which was read the first time, and ordered to be read a second time.

The Senate received, by the Secretary of State, a written message from the Governor, containing certain military nominations.

The report made on yesterday, by Mr. M'Affee, concerning the Asylum for the tuition of the Deaf and Dumb, was taken up and read as follows, to wit:

Resolved, That a respectful memorial from the Legislature, be transmitted to the Congress of the United States, on behalf of the Kentucky Institution for the tuition of the Deaf and Dumb, soliciting their attention to the petition of the trustees of said institution for the aid of the national Legislature.

Resolved, That the sum now allowed by law out of the Literary Fund, for the support of indigent pupils in said institution, ought to be increased to the sum of \$150.

Resolved, That to enable the trustees to procure a site and erect buildings suitable for the institution, a portion of the interest of the Literary Fund now on loan in the Bank of the Commonwealth, be appropriated, not exceeding dollars.

Ordered, That the chairman prepare and report a memorial and bill pursuant to the foregoing resolutions.

Mr. Beauchamp moved the following resolution, in lieu of the third resolution, to wit:

Resolved, That \$15,000 of the Commonwealth's notes, which are proposed to be burnt, be paid by the Bank of the Commonwealth to the said Asylum, in three annual instalments.

And the question being taken thereon, it was resolved in the negative—Yeas 7, nays 27.

The yeas and nays being required thereon by Messrs. Beauchamp and Carneal, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Beauchamp, Duncan, Ewing, Forsythe, Owens and Wickliff.

Those who voted in the negative, are, Messrs. C. Allan, Ballinger, Barbee, Barrett, Bowman, Carneal, Davidson, Dawson, Denny, Faulkner, Flournoy, Gorin, Hickman, Lyon, M'Afee, Marshall, Miller, Morehead, Roper, Rudd, Smith, Towles, J. Ward, T. Ward, White, Williams and Worthington.

Mr. Barbee then moved to fill the blank in the third resolution with the sum of \$4,500; and the question being taken thereon, it was resolved in the negative—Yeas 13, nays 21.

The yeas and nays being required thereon by Messrs. Dawson and Gorin, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barbee, Beauchamp, Davidson, Denny, Ewing, M'Afee, Marshall, Owens, Roper, Towles, J. Ward and T. Ward.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Barrett, Bowman, Carneal, Dawson, Duncan, Faulkner, Flournoy, Forsythe, Gorin, Hickman, Lyon, Miller, Morehead, Rudd, Smith, White, Wickliff, Williams and Worthington.

Mr. Flournoy then moved to fill said blank with the sum of \$3,000; and the question being taken thereon, it was resolved in the affirmative—Yeas 20, nays 14.

The yeas and nays being required thereon by Messrs. Wickliff and Dawson, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barbee, Barrett, Beauchamp, Davidson, Denny, Ewing, Flournoy, Forsythe, Gorin, Lyon, M'Afee, Marshall, Owens, Roper, Towles, J. Ward, T. Ward, White and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Bowman, Carneal, Dawson, Duncan, Faulkner, Hickman, Miller, Morehead, Rudd, Smith, Wickliff and Williams.

The resolutions were then concurred in.

At 45 minutes past one o'clock P. M. it was moved and seconded that the Senate should adjourn; and the question being taken thereon, it was resolved in the affirmative—Yeas 20, nays 13.

The yeas and nays being required thereon by Messrs. Denny and Marshall, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Duncan, For-

JOURNAL OF

sythe, Gorin, M'Afee, Marshall, Miller, Owens, Roper, Rudd, Towles, J. Ward, T. Ward, White and Wickliff.

Those who voted in the negative, are, Messrs. C. Allan, Bowman, Davidson, Dawson, Denny, Ewing, Faulkner, Hickman, Lyon, Morehead, Smith, Williams and Worthington.

The Speaker then declared the Senate adjourned accordingly.

MONDAY, DECEMBER 15, 1823.

The Senate assembled.

The Lieutenant-Governor being absent, Mr. Blackburn was elected Speaker for the occasion.

Mr. Forsythe presented the petition of the administrators of William Littell, deceased, praying that a law may be passed authorising the sale of a portion of the real estate of the deceased, for the payment of his debts.

Mr. Carneal presented the petition of Thomas Clarke and others, praying that a law may be passed authorising the sale of certain slaves.

Which were read and referred to the committee for courts of justice.

The following bills were reported, to wit:

By Mr. Wickliff—1. A bill laying off the State into electoral districts.

By Mr. M'Afee—2. A bill to increase the allowance to indigent pupils in the Asylum for the education of the Deaf and Dumb.

By Mr. Williams—3. A bill to raise a revenue from clerks' offices, and for other purposes.

By Mr. Smith—4. A bill for the divorce of Betsey Justice.

By Mr. Faulkner—5. A bill to declare Dick's river navigable.

And by Mr. Davidson—6. A bill to repeal the act allowing postage to the Adjutant-General, and increasing his salary.

Which were read the first time, and ordered to be read a second time; and the rule being dispensed with, the fourth and fifth bills were read a second and third times, (having been engrossed.)

Resolved, That the said bills do pass, and that the titles be, respectively, "an act for the relief of Betsey Justice," and "an act declaring Dick's river navigable."

Ordered, That Mr. Dawson inform the House of Representatives thereof, and request their concurrence.

The question being taken on reading the third bill a second time, it was resolved in the affirmative—Yeas 18, nays 15.

The yeas and nays being required thereon by Messrs. Williams and C. Allan, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, C. H. Allen, Barbee, Blackburn, Carneal, Ewing, Faulkner, Flournoy,

Forsythe, Hickman, Lyon, Miller, Roper, Smith, Towles, J. Ward, White and Williams.

Those who voted in the negative, are, Messrs. Ballinger, Beauchamp, Bowman, Cowan, Davidson, Dawson, Denny, Duncan, Gorin, M'Afee, Morehead, Rudd, T. Ward, Wickliff and Worthington.

The question being taken on engrossing and reading the first bill a third time, it was resolved in the affirmative—Yeas 22, nays 12.

The yeas and nays being required thereon by Messrs. T. Ward and Wickliff, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, C. H. Allen, Ballinger, Barbee, Blackburn, Davidson, Dawson, Denny, Ewing, Faulkner, Flournoy, Gorin, Hickman, M'Afee, Morehead, Roper, Smith, Towles, J. Ward, White, Wickliff and Williams.

Those who voted in the negative, are, Messrs. Beauchamp, Bowman, Carneal, Cowan, Duncan, Forsythe, Lyon, Miller, Owens, Rudd, T. Ward and Worthington.

Mr. Smith, from the committee of religion, made the following report, to wit:

The committee of religion have, according to order, had under consideration a petition to them referred, and have come to the following resolution thereupon, to wit:

Resolved, That the petition of Tempe Stringer, praying that she may be divorced from her husband, Jesse Stringer, *be rejected*.

Which was twice read and concurred in.

On the motion of Mr. Gorin, leave was given to bring in a bill to amend the law for the collection of certain officers' fees; and Messrs. Gorin, M'Afee and Carneal were appointed a committee to prepare and bring it in.

Mr. Williams, from the joint committee of enrolments, reported that they had examined an enrolled bill entitled "an act for the benefit of Joseph and Thomas Rotch, of Massachusetts," and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bill.

Whereupon the Speaker of the Senate signed the same, and it was delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Williams, from said committee, reported that they had performed that duty.

A bill making provision for finishing the Loutsville Hospital, was taken up and committed to Messrs. Beauchamp, Denny, C. Allan and Roper.

The amendment made by the Senate to a bill entitled "an act to provide for running the line between the counties of Knox and Harlan," was taken up and again read.

Resolved, That the Senate recede from said amendment; and that Mr. Davidson inform the House of Representatives thereof.

A bill giving clerks further time to execute their office bonds, together with the amendments reported by the select committee, was taken up and committed to Messrs. T. Ward, Flournoy and Wickliff.

A bill from the House of Representatives, entitled "an act providing for a change of venue in the case of Elijah Walton," was read a second time; and the rule being dispensed with, it was read a third time.

Resolved, That the said bill do pass, and that Mr. Ewing inform the House of Representatives thereof.

A bill for the benefit of Charles Brandon and Leonard Kaler, was read a second time. The rule being dispensed with, and the bill having been engrossed, it was read a third time as follows, to wit:

Whereas it is represented to this General Assembly, that Charles Brandon, of Calloway county, has built a water grist-mill on bloody river, and Leonard Kaler has built a water grist-mill on the waters of Clark's river, in said county, on the lands of this Commonwealth; which mills are of much public utility, and in order to secure to them the benefit of their labor,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Charles Brandon shall be entitled to the pre-emption of one quarter section of land on Bloody river, in the county aforesaid, on which he has built said mill; and on his making satisfactory proof to the register of the land-office, of the number of the section, township and range, and the quarter section on which he has built said mill, and producing to the register aforesaid the auditor's *quietus* for the full amount of the minimum price of land west of Tennessee river, within six months from the passage of this act, the register of the land-office is hereby directed to issue a patent to the said Brandon for said quarter section, as in other cases.

§ 2. *Be it further enacted*, That Leonard Kaler shall be entitled to the pre-emption right to the north-west quarter of section five, in township three north, and range three east of the meridian, in the county aforesaid, on which he has built said mill; and it shall be the duty of the register of the land-office to issue a patent therefor, to said Kaler, on his complying with the requisitions of the first section of this act, within the time prescribed thereby, and the same shall not be sold as in other cases: *Provided*, nothing in this act shall operate in any manner to the prejudice of any military entry, survey or location heretofore made on said quarter sections, nor any part thereof, and that the quarter sections of land herein authorised to be granted, shall not interfere with, or include any other actual settler upon such quarter sections.

The question being taken on the passage thereof, it was resolved in the negative—Yeas 13, nays 20.

The yeas and nays being required thereon by Messrs. Lyon and Bowman, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Beauchamp, Bowman, Dawson, Denny, Duncan, Ewing, Forsythe, Lyon, M^r-Afee, Owens, T. Ward, White and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Ballinger, Barbee, Blackburn, Carneal, Cowan, Davidson, Faulkner, Flournoy, Gorin, Hickman, Miller, Morehead, Rudd, Smith, Towles, J. Ward, Wickliff and Williams.

And so the said bill was rejected.

Engrossed bills, to wit: A bill to appropriate the vacant lands lying east of the Tennessee river and between the Tennessee line and 36 degrees 30 minutes north, and a bill to provide for the more speedy adjustment of the accounts of executors, administrators and guardians, were severally read the third time.

The former bill was committed to Messrs. Bowman, Dawson, Gorin and Morehead.

Resolved, That the latter bill do pass, and that the title be, "an act to provide for the more speedy adjustment of the accounts of executors, administrators and guardians."

Ordered, That Mr. Williams inform the House of Representatives thereof, and request their concurrence.

Mr. Beauchamp, from the select committee to whom was referred "a bill to amend the law concerning divorces," reported the same without amendment, and it was committed to Messrs. M^r-Afee, Beauchamp, Ewing, Carneal and Dawson.

The senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act for the benefit of Chasteen T. Duniven, sheriff of Warren county; an act for legalizing the proceedings of the county court of Warren, in laying the levy in November 1823; an act to amend an act entitled "an act to incorporate the Cynthia Library Company;" an act for the benefit of Jane Proctor and her children, and an act appointing trustees for the town of Fairfield, in Nelson county; and the passage of a bill from the Senate, entitled "an act forming a new county out of parts of the counties of Hardin and Breckinridge," and that they had concurred in the amendments made by the Senate, to a bill entitled "an act allowing an additional Director to the Branch Bank of the Commonwealth at Hartford."

Henry B. Mayo appeared and produced a certificate of his having been duly elected Senator from the counties of Bath, Floyd, Pike, Morgan and parts of Lawrence and Perry; and having taken the several oaths of office, took his seat.

A bill from the House of Representatives, entitled "an act supplementary to the act establishing the county of Oldham," was read the first time; and the rule being dispensed with, it was read a second and third times.

Mr. Denny moved to amend the bill, by attaching thereto the following clause:

"The said county shall be added to, and form a part of the ninth Congressional district."

And the question being taken thereon, it was resolved in the affirmative—Yeas 17, nays 14.

The yeas and nays being required thereon by Messrs. C. H. Allen and Wickliff, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Ballinger, Barbee, Beauchamp, Blackburn, Bowman, Carneal, Dawson, Denny, Forsythe, Lyon, Owens, Roper, Towles, J. Ward, T. Ward and White.

Those who voted in the negative, are, Messrs. C. H. Allen, Cowan, Davidson, Duncan, Ewing, Faulkner, Flournoy, Gorin, M'Affee, Miller, Morehead, Rudd, Smith and Wickliff.

Mr. Wickliff then moved to amend the amendment, by adding thereto the words, "also the county of Hardin."

And the question being taken thereon, it was resolved in the negative—Yeas 5, nays 26.

The yeas and nays being required thereon by Messrs. Wickliff and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Gorin, Towles, White and Wickliff.

Those who voted in the negative, are, Messrs. C. Allan, Ballinger, Barbee, Beauchamp, Blackburn, Bowman, Carneal, Cowan, Davidson, Dawson, Denny, Duncan, Ewing, Faulkner, Flournoy, Forsythe, Hickman, M'Affee, Miller, Morehead, Owens, Roper, Rudd, Smith, J. Ward and T. Ward.

Resolved, That the said bill, as amended, do pass, and that Mr. Denny inform the House of Representatives thereof.

And then the Senate adjourned.

TUESDAY, DECEMBER 16, 1823.

The Senate assembled.

The Senate received a message from the House of Representatives, announcing that they had received official information that the Governor did, on yesterday, approve and sign enrolled bills, which originated in that House, of the following titles, to wit: An act to amend the several laws now in force concerning the town of Maysville, Mason county; an act to establish the county of Oldham; an act to add a part of the county of Fleming to the county

of Nicholas, and an act for the benefit of Joseph and Thomas Rotch, of Massachusetts. Also, that they had concurred in an amendment made by the Senate, upon their receding from their first amendment to a bill entitled "an act for the benefit of George Payne;" that they had concurred in an amendment made by the Senate, to a bill entitled "an act supplemental to an act establishing the county of Oldham;" that they had passed a bill from the Senate, entitled "an act to establish the county of Graves," and that they had passed bills of the following titles, to wit: An act for the relief of the acting executor of William Hardin, deceased; an act incorporating the Harrodsburg Library Company; an act to authorise the clerk of Logan county to record certain certificates, and for other purposes; an act for the benefit of the late sheriffs of Ohio, Breckinridge and Daviess counties, and an act authorising a sale of part of the real estate of Anthony Griffin, deceased. Also, that they had adopted a preamble and resolutions in relation to the late decision of the Court of Appeals of this State on the replevin and endorsement laws, and the Supreme Court of the United States, on the occupying claimant laws of Kentucky.

Mr. C. H. Allen presented the petition of William* Spurgin, praying that a law may be passed authorising the payment of \$143, for notes on the Bank of the Commonwealth which have been casually destroyed; which was read and referred to the committee for courts of justice.

The vote whereby "a bill to authorise the sale of a portion of the real estate of John P. Aldridge, deceased, for the purpose of paying his debts," was rejected, was re-considered; and the question being taken on reading the bill a second time, it was resolved in the negative, and so the said bill was again rejected.

The following messages from the Governor were taken up, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour and their residence within the bounds of their respective commands, viz.

Thomas Johnson, brigade quartermaster of the 23d brigade, vice Felix Huston, removed.

William Morgan, colonel of the 3d regiment, vice John Sneed, removed.

John Allison, lieutenant colonel of the same regiment, vice William Morgan, promoted.

John Morris, major of the same regiment, vice Peter Duree, removed.

Martin Hardin, colonel of the 60th regiment, vice Robert Martin, promoted.

Joseph Kirkpatrick, lieutenant colonel of the same regiment, vice Martin Hardin, promoted.

Thomas Williams, major of the same regiment, vice William Read, deceased.

JOHN ADAIR.

December 6th, 1823.

Gentlemen of the Senate,

I nominate for your advice and consent, Richardson P. Hughes, colonel of the 109th regiment, vice John R. Dickerson, resigned.

James Flippin, lieutenant colonel of the same regiment, vice Richardson P. Hughes, promoted.

Isaac Jackson, major of the same regiment, vice James Flippin, promoted.

Lemuel Stockton, major of the 46th regiment, vice George H. Rowland, deceased.

Reuben Reed, major of the 81st regiment, vice Ambrose S. Bramblet, promoted.

James G. Yates, colonel of the 93d regiment, vice John W. Shirley, resigned; to take rank from the date of his *pro tem.* appointment.

Colonel Yates was appointed *pro tem.* in the recess of the Senate of 1822; but in consequence of a clerical mistake in the recommendation of the brigadier general, he was commissioned by the name of James G. Gates, and at your last session was nominated and approved, and again commissioned by the same name. There is no other person known, who could claim the appointment. This nomination is made to correct the error.

JOHN ADAIR.

December 13th, 1823.

Resolved, That the Senate advise and consent to said appointments; and that Messrs. Barbee, Ewing and Miller inform the Governor thereof.

Engrossed bills, to wit: An act providing for the opening a road from Greensburg to the Ohio river, and an act concerning the Bank of Kentucky and the Bank of the Commonwealth, were read a third time.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act providing for the opening a road from Greensburg to the Ohio river," and "an act concerning the Bank of Kentucky and the Bank of the Commonwealth."

The question being taken on the passage of the latter bill, it was resolved in the affirmative—Yeas 22, nays 13.

The yeas and nays being required thereon by Messrs. C. H. Allen and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Barbee, Blackburn, Bowman, Carneal, Cowan, Davidson, Denny, Faulkner, Flournoy, Hickman, Howard, Lyon, M'Afee, Marshall,

Roper, Smith, Towles, White, Wickliff, Williams and Worthington.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Beauchamp, Dawson, Duncan, Ewing, Forsythe, Gorin, Mayo, Miller, Morehead, Owens and T. Ward.

Ordered, That Mr. Wickliff inform the House of Representatives thereof.

The following bills were reported from the select committees to whom they were referred, to wit: By Mr. Beauchamp, a bill making provision for finishing the Louisville Hospital; by Mr. T. Ward, a bill giving clerks further time to execute their office bonds, and by Mr. Beauchamp, a bill to amend the act regulating divorces; severally with amendments. Those to the two former were concurred in, and the bills ordered to be engrossed and read a third time.

Mr. C. Allan moved to lay the latter bill and amendments on the table until the first day of July next; and the question being taken thereon, it was resolved in the negative—Yeas 14, nays 21.

The yeas and nays being required thereon by Messrs. Beauchamp and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, C. H. Allen, Barbee, Bowman, Cowan, Davidson, Dawson, Duncan, Gorin, Hickman, Rudd, Towles, J. Ward and Wickliff.

Those who voted in the negative, are, Messrs. Ballinger, Beauchamp, Carneal, Denny, Ewing, Faulkner, Flournoy, Forsythe, Howard, Lyon, M'Affee, Marshall, Mayo, Miller, Morehead, Owens, Roper, Smith, T. Ward, White and Worthington.

The bill and amendments were then committed to Messrs. Flournoy, Denny, Marshall and Beauchamp.

Mr. Barbee, from the joint committee of enrolments, reported that the committee had examined sundry enrolled bills of the following titles, to wit: An act allowing additional Directors to certain branches of the Bank of the Commonwealth: an act to provide for running the line between the counties of Knox and Harlan, and an act supplemental to the act establishing the county of Oldham; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills.

Whereupon the Speaker of the Senate signed the same, and they were delivered to the joint committee of enrolments, to be laid before the Governor, and after some time, Mr. Barbee, from said committee, reported that they had performed that duty.

Mr. Roper, from the committee for courts of justice, made the following reports, to wit:

The committee for courts of justice have, according to order, had under consideration the petitions of Chasteen Scott, guardian, &c. Thomas Clarke and others, the administrators of William

Littell, and James and Robert Childers, severally praying the passage of laws for their benefit, and have come to the following resolution thereupon, to wit:

Resolved, That said petitions be rejected.

The committee for courts of justice have, according to order, had under consideration the petition of the heirs of John Snell, deceased, praying that a law may be passed authorising the sale of a certain tract of land, and have come to the following resolution thereupon, to wit:

Resolved, That the said petition be rejected.

The former resolution was concurred in, except so far as relates to the petition of James and Robert Childers, which was amended, by striking out the words "be rejected," and inserting, as to them, the words "is reasonable," and concurred in.

Mr. Carneal then moved to amend the latter resolution, by striking out the words "be rejected," and inserting in lieu thereof the words "is reasonable;" and the question being taken thereon, it was resolved in the affirmative—Yeas 17, nays 15.

The yeas and nays being required thereon by Messrs. Faulkner and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Beauchamp, Carneal, Davidson, Duncan, Ewing, Forsythe, Gorin, Howard, Lyon, M'Afee, Owens, Smith, Towles, T. Ward, White and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Barbee, Bowman, Cowan, Dawson, Faulkner, Flournoy, Hickman, Mayo, Miller, Morehead, Roper, J. Ward and Wickliff.

Ordered, That said committee prepare and bring in bills pursuant to said resolutions.

The following bills were reported, to wit:

By Mr. Roper—A bill for the benefit of the heirs of John Snell.

And by Mr. Gorin—A bill to amend the law concerning the collection of officers' fees.

Which were severally read the first time, and ordered to be read a second time; and the rule being dispensed with, the former bill was read a second and third times, as follows, to wit:

A Bill for the benefit of the heirs of John Snell.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That upon Robert and Cumberland Snell, created trustees by the deed of John Snell, conveying to them, the said trustees, a tract or parcel of land in the county of Scott, in trust for the benefit of the heirs of Joseph Snell, deceased, with the exception of Peggy Brasher, filing a petition before the Judge of the circuit court of Scott, setting forth the deed of trust, and praying to be permitted, by a decree of said court, to sell the said land, convey-

ed to them as aforesaid, for the purposes in said deed stipulated and directed, it shall and may be lawful for said court to decree a sale and conveyance of said tract or parcel of land, by the said trustees: *Provided*, said court is satisfied that such sale is for the benefit and advantage of the heirs of said Joseph Snell, for whose benefit said trust was created: *And provided*, said trustees enter into bond, in the penalty of three times the value of the land, with sufficient security, to be approved of by the court, faithfully to perform the decree and the stipulations of the deed of trust; which bond shall be made payable to the Commonwealth, and upon a breach thereof, the same may be sued on by the heirs of said Joseph Snell, in the name of the Commonwealth, but for the use aforesaid.

And the question being taken on the passage thereof, it was resolved in the negative—Yeas 16, nays 17.

The yeas and nays being required thereon by Messrs. Faulkner and Carneal, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Beauchamp, Carneal, Davidson, Denny, Duncan, Ewing, Forsythe, Gorin, Howard, Lyon, M'Afee, Owens, Smith, White and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Barbee, Bowman, Cowan, Dawson, Faulkner, Flournoy, Hickman, Marshall, Mayo, Miller, Morehead, Roper, Towles, J. Ward and Wickliff.

And so the said bill was rejected.

Mr. Flournoy, from the select committee to whom was referred "a bill to amend the act regulating divorces," reported the same with an amendment in lieu of the bill. The bill was then read as follows, to wit:

A Bill to amend the act regulating Divorces, approved January 31st, 1809.

Whereas there are other causes, in addition to those enumerated in the act concerning divorces, approved January 31st, 1809, for which it is deemed just and reasonable that divorces should be granted: Therefore, for remedy whereof,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That in addition to the causes set forth in said recited act, the following shall be considered as good cause for a divorce, viz. Adultery, or on the part of the wife, being pregnant by another man at the time of marriage, without the knowledge of the husband, or the having a coloured child; and it shall and may be lawful for the party aggrieved, as well under the provisions of the above recited act, as for the causes set forth in this act, to file his or her petition, on oath, in the clerk's office of the circuit court of the county where he or she may reside, setting forth all the causes

of complaint; whereupon the clerk shall issue a summons against the defendant, which may be directed to any county within this commonwealth, who may appear and answer as heretofore, or plead to the same; and upon the summons being returned executed, or where it shall appear to the court that the party against whom such summons issued is no inhabitant of this State, and proof of publication agreeable to the laws now in force, said petition shall be placed on the docket immediately after the commonwealth's business; and when it shall also appear that the summons has been executed thirty days previous to the return day, or that the person is no inhabitant of this State, and that publication has been made according to law, the same shall stand for trial at the first term when the summons shall be returned executed, or in case of publication, at the first term thereafter; whereupon a jury shall be empannelled, to consist of house-keepers at least thirty-five years of age, who shall be sworn to try the truth of the statements in the petition; and if the jury find that the said petition is substantially supported by the evidence, as to the cause or causes specified according to law, the court shall pronounce a decree divorcing the party aggrieved; and when the jury find against the petition, the court shall dismiss the same with costs.

§ 2. *Be it further enacted*, That witnesses shall be summoned to testify before the jury, or depositions may be taken, as to the court may seem expedient, and judgments for costs, and execution, as in other cases.

The amendment was then read as follows, to wit:

"That from and after the passage of this act, all suits for divorces shall be placed upon the docket next after the business of the Commonwealth, and be tried in order, according to the laws now in force; and in all such causes a jury shall be empannelled to try and find the facts, which jury shall be composed of married men, actually then living with their wives."

And the question being taken upon concurring in the amendment, it was resolved in the affirmative—Yeas 17, nays 15.

The yeas and nays being required thereon by Messrs. Beauchamp and Gorin, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, C. H. Allen, Barbee, Blackburn, Bowman, Davidson, Dawson, Denney, Duncan, Flournoy, Hickman, Marshall, Morehead, Smith, Towles, J. Ward and Wickliff.

Those who voted in the negative, are, Messrs. Ballinger, Beauchamp, Ewing, Faulkner, Forsythe, Gorin, Howard, Lyon, M'Afee, Mayo, Miller, Owens, T. Ward, White and Worthington.

The bill, having been engrossed, was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act to amend the law concerning divorces."

Ordered, That Mr. Flournoy inform the House of Representatives thereof.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of the bill regulating civil proceedings; and the amendments were concurred in, and the bill committed to the committee for courts of justice.

The Senate received, by Mr. Waggener, a written message from the Governor, containing nominations of officers for Oldham county; and the rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

The recommendations having been made in conformity to the provisions of the Constitution, I nominate for your advice and consent, James S. Crutchfield, sheriff; Fitzhugh Thornton, coroner; Richard Barbour, Richard Oglesby, James Barbee, Thomas T. Barbour, Andrew Steele, Thomas Ely, Jack Pryor, William Gatewood, Edward M. Taylor, Ellis Oglesby, Smith Phelps, Thomas Ballard and William Foree, justices of the peace in and for the county of Oldham.

JOHN ADAIR.

December 16th, 1823.

Resolved, That the Senate advise and consent to said appointments, and that Messrs. White, Denny and C. H. Allen inform the Governor thereof.

Ordered, That Mr. Marshall be added to the committee for courts of justice.

Mr. Dawson moved the following resolution, to wit:

Resolved, That the public printers forthwith print 1,000 copies of the petition presented by George M. Bibb, for a re-hearing of the decision of the Court of Appeals relative to the replevin and endorsement laws, for the use of the members of the Legislature.

Mr. Flournoy moved the following amendment, to wit:

"That the argument contained in the speech of Thomas Montgomery, delivered in the House of Representatives, be also printed."

And the question being taken on the amendment, it was resolved in the negative—Yeas 10, nays 22.

The yeas and nays being required thereon by Messrs. Beauchamp and Owens, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Roper and Williams.

Those who voted in the negative, are, Mr. Speaker, Messrs. C. H. Allen, Ballinger, Barbee, Beauchamp, Carneal, Dawson, Denny, Duncan, Ewing, Forsythe, Gorin, Lyon, M'Affee, Marshall, Mayo, Miller, Owens, Smith, T. Ward, White and Worthington.

The question was then taken upon concurring in the resolution, and it was resolved in the affirmative—Yeas 20, nays 12.

The yeas and nays being required thereon by Messrs. Davidson and C. H. Allen, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Beauchamp, Carneal, Dawson, Denny, Duncan, Ewing, Forsythe, Gorin, Lyon, M'Affee, Marshall, Mayo, Miller, Owens, Smith, T. Ward and Worthington.

Those who voted in the negative, are, Mr. Speaker, Messrs. C. Allan, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Roper, White and Williams.

And then the Senate adjourned.

WEDNESDAY, DECEMBER 17, 1823.

The Senate assembled.

The Lieutenant-Governor appeared and resumed his duties.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined enrolled bills of the following titles, to wit: An act to establish the county of Graves, and an act forming a new county out of parts of the counties of Hardin and Breckinridge, and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee, from said committee, reported that they had performed that duty.

The following bills were reported, to wit:

By Mr. Blackburn—A bill to amend and reduce into one the several acts regulating executions.

By Mr. Roper—A bill for the benefit of Ryland T. Dillard and others.

And by Mr. Lyon—A bill to establish the town of Mayfield, in Graves county, and to provide for the sale of the lots.

Which were severally read the first time; and the rule being dispensed with, they were read a second time, and the two latter a third time, (having been engrossed.)

Resolved, That the two latter bills do pass, and that the titles be, respectively, "an act for the benefit of Ryland T. Dillard and others," and "an act to establish the town of Mayfield, in Graves county, and to provide for the sale of the lots."

Ordered, That Mr. C. Allan inform the House of Representatives thereof.

The former bill was laid on the table, and the public printers ordered to print 150 copies thereof, for the use of the Legislature.

A bill further to regulate the duties of clerks, was read a second time; and the rule being dispensed with, and the bill having been engrossed, it was read a third time.

Resolved, That the said bill do pass, and that Mr. T. Ward inform the House of Representatives thereof.

On the motion of Mr. Beauchamp, leave was given to bring in a bill to amend the law concerning frauds and perjuries; and Messrs. Beauchamp, Flournoy, Denny, M'Afee and C. H. Allen were appointed a committee to prepare and bring it in.

Mr. M'Afee, from the select committee to whom was referred "a bill for the benefit of the heirs of David Davidson, deceased," reported the same with an amendment, which was concurred in; and the bill, having been engrossed, was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of the heirs of David Davidson, deceased."

Ordered, That Mr. M'Afee inform the House of Representatives thereof.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of the following bills, to wit: A bill for the benefit of securities; a bill better to secure the right of property to married women and their children, and a bill to amend the law concerning champerty and maintenance.

The first bill was committed to Messrs. Marshall, Howard and Blackburn; the second to Messrs. Blackburn, C. Allan and Roper, and the third to Messrs. Beauchamp, T. Ward and Blackburn.

The Senate received, by the Secretary of State, a written message from the Governor; and the rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent, William Garnett, lieutenant colonel of the 67th regiment, vice James M. Gaines, resigned.

Thomas Nelson, major of the same regiment, vice William Garnett, promoted.

Samuel I. M'Dowell, lieutenant colonel of the 25th regiment, vice Thomas R. Shannon, removed.

Robert W. Ragland, major of the same regiment, vice John H. Clark, deceased.

JOHN ADAIR.

December 17th, 1823.

Resolved, That the Senate advise and consent to said appointments, and that Messrs. T. Ward and Davidson inform the Governor thereof.

Mr. Gorin, from the joint committee appointed to examine the report of the Branch Bank of the Commonwealth at Greensburg, made the following report, to wit:

The joint committee appointed to examine the situation of the Branch Bank of the Commonwealth located at Greensburg, have performed that duty, and beg leave to report, that according to the report furnished by the Cashier, the Directory have conducted that institution, as to the amount of loans, agreeable to the charter; and the debts owing by the citizens of the counties of Green, Adair, Hart and Monroe, are, as far as your committee know or believe, well secured. Those owing by the citizens of Barren county, are not entirely so. They believe there is, of that county, about \$1,109 which may be deemed bad, and about \$6,076 doubtful. And of the debts owing by the citizens of the county of Cumberland, it is believed about \$2,402 may be considered bad, and about \$2,458 doubtful. All of which is respectfully submitted.

From the Senate,

JOHN GORIN,
WILLIAM OWENS,
ELIAS BARBEE,
GRANVILLE BOWMAN,

(So far as respects Cumberland county.)

From the House of Representatives,

HIRAM S. EMERSON,
BENJAMIN SELBY,
JOHN EMERSON,
LIBERTY GREEN,
GEORGE GALLOWAY,
RICHARD I. MUNFORD,
M. W. HALL.

Resolved, That the hour of meeting by the Senate, for the residue of the present session, shall be nine o'clock.

Mr. Wickliff moved to take up the resolution for the final adjournment of the Legislature; and the question being taken thereon, it was resolved in the affirmative—Yeas 22, nays 12.

The yeas and nays being required thereon by Messrs. Beauchamp and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Balingier, Blackburn, Bowman, Carneal, Cowan, Davidson, Dawson, Denny, Ewing, Faulkner, Flournoy, Hickman, Howard, Lyon, Roper, Towles, J. Ward, White, Wickliff, Williams and Worthington.

Those who voted in the negative, are, Messrs. C. H. Allen, Barbree, Beauchamp, Duncan, Forsythe, Gorin, M'Acce, Miller, Owens, Rudd, Smith and T. Ward.

Mr. Beauchamp moved to fill up the blank with the first day of January next; and the question being taken thereon, it was resolved in the negative—Yeas 12, nays 24.

The yeas and nays being required thereon by Messrs. Beauchamp and Miller, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Barbee, Beauchamp, Denny, Duncan, Forsythe, Gorin, M'Afee, Mayo, Miller, Smith and T. Ward.

Those who voted in the negative, are, Messrs. C. Allan, Ballinger, Barrett, Blackburn, Bowman, Carneal, Cowan, Davidson, Dawson, Ewing, Faulkner, Flournoy, Hickman, Howard, Lyon, Owens, Roper, Rudd, Towles, White, Wickliff, Williams and Worthington.

The blank was then filled with the 24th instant; and the question being taken upon the adoption thereof, it was resolved in the affirmative—Yeas 24, nays 12.

The yeas and nays being required thereon by Messrs. Beauchamp and Gorin, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Ballinger, Barbee, Barrett, Blackburn, Bowman, Carneal, Cowan, Davidson, Dawson, Denny, Ewing, Faulkner, Flournoy, Hickman, Howard, Rudd, Towles, J. Ward, T. Ward, White, Wickliff, Williams and Worthington.

Those who voted in the negative, are, Messrs. C. H. Allen, Beauchamp, Duncan, Forsythe, Gorin, Lyon, M'Afee, Mayo, Miller, Owens, Roper and Smith.

Ordered, That Mr. Faulkner inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act to abolish an election precinct in Cumberland county; an act for the divorce of Emily Nixon and others; an act providing for a change of venue in the case of William Cornwell; an act for the benefit of the heirs of John South, and an act to compensate Henry Clay and John Rowan for their services as counsel for the State of Kentucky under the convention with Virginia.

The latter bill was read the first time; and the rule being dispensed with, it was read a second and third times.

Resolved, That the said bill do pass, and that Mr. Wickliff inform the House of Representatives thereof.

A resolution from the House of Representatives, in relation to the Penitentiary, was taken up and concurred in.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

The preamble and resolutions in relation to the late decision of the Court of Appeals of this State, on the replevin and endorsement laws, and the Supreme Court of the United States, on the occupying claimant laws of Kentucky, were committed to a committee of the whole house on the state of the commonwealth, for to-morrow.

Bills from the House of Representatives, of the following titles, to wit: 1. An act for the benefit of the heirs and representatives of Benjamin South, deceased; 2. an act for the benefit of Thomas Mullens; 3. an act to revive the law providing for the appointment of commonwealth's attorneys; 4. an act for the benefit of James Kirkham's heirs; 5. an act to amend an act to establish a seminary of learning in the county of Hart; 6. an act to amend an act entitled "an act to incorporate the Cynthiana Library Company;" 7. an act appointing trustees for the town of Fairfield, in Nelson county; 8. an act for legalizing the proceedings of the county court of Warren, in laying the levy at November term 1823; 9. an act for the benefit of Chasteen T. Duniven, sheriff of Warren county; 10. an act for the benefit of Jane Proctor and her children, and 11. an act establishing election precincts in the counties of Fayette, Harrison and Lawrence, and for other purposes, were severally read the first time.

The question being taken on reading the first bill a second time, it was resolved in the negative; and so the said bill was rejected.

The rule being dispensed with, the remainder of said bills were read a second and third times.

Resolved, That the said bills do pass, and that Mr. T. Ward inform the House of Representatives thereof.

The following bills were read a second time, to wit: 1. A bill for the benefit of the heirs of Philip Buckner; 2. a bill for the benefit of Robert C. Slaughter; 3. a bill for the benefit of a school in Washington county; 4. a bill for the benefit of Littleberry Batchelor; 5. a bill for the benefit of Elijah Veach and William Durrington; 6. a bill to regulate the duties of certain officers; 7. a bill to repeal all laws allowing a replevin of two years on contracts entered into after the first day of June next; 8. a bill to repeal the act allowing postage to the adjutant-general, and increasing his salary; 9. a bill to raise a revenue from clerks' offices, and for other purposes, and 10. a bill to increase the allowance to indigent pupils in the Asylum for the education of the Deaf and Dumb.

The fourth bill was committed to the committee for courts of justice, and the eighth to Messrs. Wickliff, Davidson and Gorin. The first, second, third, seventh and tenth bills were ordered to be engrossed and read a third time; and the rule being dispensed with, the first, second and tenth bills (having been engrossed) were read a third time.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act for the benefit of the heirs of Philip Buckner;" "an act for the benefit of Robert C. Slaughter," and "an act to increase the allowance to indigent pupils in the Asylum for the education of the Deaf and Dumb."

Ordered, That Mr. Rudd inform the House of Representatives thereof.

The question being taken on the passage of the tenth bill, it was resolved in the affirmative—Yeas 26, nays 9.

The yeas and nays being required thereon by Messrs. Wickliff and M'Affee, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Ballinger, Barbee, Barrett, Beauchamp, Blackburn, Davidson, Denny, Ewing, Flournoy, Forsythe, Gorin, Howard, Lyon, M'Affee, Marshall, Mayo, Miller, Owens, Smith, Towles, J. Ward, T. Ward, White, Williams and Worthington.

Those who voted in the negative, are, Messrs. C. H. Allen, Bowman, Cowan, Dawson, Duncan, Faulkner, Hickman, Rudd and Wickliff.

The question being taken on engrossing and reading the fifth and sixth bills a third time, it was resolved in the negative; and so the said bills were rejected.

Mr. Wickliff moved to lay the ninth bill on the table until the first day of July next; and the question being taken thereon, it was resolved in the affirmative—Yeas 24, nays 13.

The yeas and nays being required thereon by Messrs. Williams and T. Ward, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barbee, Barrett, Beauchamp, Bowman, Cowan, Davidson, Dawson, Denny, Ewing, Gorin, Hickman, M'Affee, Marshall, Mayo, Miller, Owens, Rudd, Smith, Towles, J. Ward, T. Ward, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Blackburn, Duncan, Faulkner, Flournoy, Forsythe, Hickman, Lyon, White and Williams.

Resolutions from the House of Representatives, requesting the attention of the general government to the subject of slaves belonging to citizens of the United States, who have or may escape into Canada, were taken up and concurred in.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

An engrossed bill to lay off the State into Electoral Districts, was read a third time, and the blanks therein filled.

Resolved, That the said bill do pass, and that the title be, "an act to lay off the State into Electoral Districts."

Ordered, That Mr. Wickliff inform the House of Representatives thereof, and request their concurrence.

Bills from the House of Representatives, of the following titles, to wit: 1. An act authorising certain advertisements to be published in "The News-Letter;" 2. an act more effectually to suppress gaming; 3. an act for the benefit of Frederick Ridgely, and for other purposes; 4. an act for the benefit of Frederick Snider; and 5. an act for the benefit of Jacob Butler, were severally read the first time and ordered to be read a second time.

The rule being dispensed with, the four former bills were read a second time, and the first a third time, having been amended at the Clerk's table.

Resolved, That the said bill, as amended, do pass, and that the title be "an act authorising certain advertisements to be published in "The News-Letter" and "Telegraph."

Ordered, That Mr. M'Afee inform the House of Representatives thereof.

The third bill was committed to the committee for courts of justice.

And then the Senate adjourned.

THURSDAY, DECEMBER 18, 1823.

The Senate assembled.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined sundry enrolled bills and an enrolled resolution, of the following titles, to wit: An act for the benefit of Thomas Mullens; an act to amend an act to establish a seminary of learning in Hart county; an act to revive the law providing for the appointment of commonwealth's attorneys; an act providing for a change of venue in the case of Elijah Walton; an act for the benefit of George Payne of Union county, and George Payne of Henry county; an act to compensate Henry Clay and John Rowan for their services as counsel for the State of Kentucky, under the convention with Virginia, and a resolution in relation to the Penitentiary; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills and resolution.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee reported that they had performed that duty.

The Senate received a message from the House of Representatives, announcing that they had received official information that the Governor did, on this day, approve and sign enrolled bills, which originated in that House, of the following titles, to wit: An act supplemental to the act establishing the county of Oldham; an act to provide for running the line between the counties of Knox and Harlan, and an act allowing additional Directors to certain branches of the Bank of the Commonwealth. Also, that they had passed bills of the following titles, to wit: An act for the benefit of the widow and heirs of Joseph Sansberry, deceased; an act for the benefit of the heirs of Absalom Adams, deceased; an act for the benefit of John Cotrell and others; an act for the bene-

at of the administrators of Rezin Clubb, deceased, and an act to amend an act to incorporate a turnpike road company from Louisville to Portland and Shippingport.

The latter bill was taken up and read the first time; and the rule being dispensed with, it was read a second and third times.

Resolved, That the said bill do pass, and that Mr. T. Ward inform the House of Representatives thereof.

On the motion of Mr. M'Afee, leave was given to bring in a bill to amend the act incorporating the trustees of the Centre College of Kentucky; and Messrs. M'Afee, Davidson and Marshall were appointed a committee to prepare and bring it in.

The following bills were reported, to wit:

By Mr. Roper—1. A bill to change the venue in the case of John Williams. Also, 2. a bill for the benefit of Nancy Stroud.

By Mr. Lyon—3. A bill for the benefit of Isaac and Clio Alzire Darneille.

By Mr. Beauchamp—4. A bill to amend the law concerning frauds and perjuries.

By Mr. T. Ward—5. A bill for the benefit of James and Robert Childers.

And by Mr. Miller—6. A bill allowing an additional term to the county court of Hardin.

Which bills were severally read the first time, and ordered to be read a second time; and the rule being dispensed with, the 1st, 2d, 3d, 5th and 6th bills were read a second time.

The 1st, 3d, 5th and 6th bills were ordered to be engrossed and read a third time; and the rule being dispensed with, and the 1st, 5th and 6th bills having been engrossed, were read a third time.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act to change the venue in the case of John Williams;" "an act for the benefit of James and Robert Childers," and "an act allowing an additional term of the Hardin county court."

Ordered, That Mr. Ewing inform the House of Representatives thereof, and request their concurrence.

The second bill was committed to the committee for courts of justice.

The question being taken on reading the fourth bill a second time, it was resolved in the affirmative—Yeas 18, nays 16.

The yeas and nays being required thereon by Messrs. Beauchamp and Carneal, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Barbee, Beauchamp, Blackburn, Carneal, Cowan, Faulkner, Flournoy, Gorin, Hickman, Lyon, M'Afee, Miller, Morehead, Owens, Rudd, Towles, White and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Ballinger, Barrett, Bowman, Davidson, Dawson, Denny,

Duncan, Ewing, Howard, Mayo, Roper, J. Ward, T. Ward and Wickliff.

Mr. Carneal made the following report, to wit:

The joint committee to whom was referred the examination of the list of debtors to the Branch of the Bank of the Commonwealth of Kentucky at Falmouth, have had the same under consideration, and beg leave to submit the following report, viz. That the debts, so far as they know or believe, are well secured, and that this branch of the institution appears to have been governed by the principles prescribed in the act of incorporation.

From the Senate,

JOHN FORSYTHE,
P. BARRETT.
JOHN H. RUDD,
THOMAS D. CARNEAL.

From the House of Representatives,

H. O. BROWN,
S. GRIFFITH,
LEWIS RIDDELL,
LEONARD STEPHENS,
R. W. WEBBER,
STEPHEN MULLINS.

Mr. Flournoy read and laid on the table the following resolution, to wit:

Whereas the reports of defaulting debtors, and of other matters of information required by resolution, from the different branches of the Commonwealth's Bank, have not been made to the Legislature; in consequence of which, but few reports of committees, showing the state and condition of said branches, have yet been made to either branch of the Legislature: Therefore,

Resolved, That the resolution fixing on the 18th inst. for the election of Bank Officers, be rescinded, and that the 22d day of this month be fixed upon in lieu thereof.

The rule being dispensed with, it was taken up and adopted.

Ordered, That Mr. Flournoy inform the House of Representatives thereof, and request their concurrence.

The following bills were reported from the select committees to whom they were referred, to wit: By Mr. Wickliff, a bill to repeal the act allowing postage to the Adjutant-General, and increasing his salary; by Mr. Blackburn, a bill better to secure the right of property to married women and their children; and by Mr. Howard, a bill for the benefit of securities; with amendments to the two latter.

The question being taken on engrossing and reading the first bill a third time, it was resolved in the negative; and so the said bill was rejected.

Mr. Wickliff moved to lay the second bill on the table until the first day of June next; and the question being taken thereon, it was resolved in the negative—Yeas 14, nays 19.

The yeas and nays being required thereon by Messrs. Blackburn and Gorin, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barrett, Bowman, Davidson, Dawson, Faulkner, Flournoy, Hickman, Howard, Lyon, Roper, Towles and Wickliff.

Those who voted in the negative, are, Messrs. Barbee, Beauchamp, Blackburn, Cowan, Duncan, Ewing, Forsythe, Gorin, McAfee, Mayo, Miller, Morehead, Owens, Rudd, Smith, J. Ward, White, Williams and Worthington.

The amendment to the second bill was concurred in, and the bill ordered to be engrossed and read a third time.

The third bill, with the amendment, was committed to Messrs. Flournoy, Howard and Towles.

The Senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Howard in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Howard reported, that the committee had, according to order, had under consideration a preamble and resolutions from the House of Representatives, in relation to the late decision of the Court of Appeals of this State on the replevin and endorsement laws, and the Supreme Court of the United States on the occupying claimant laws of Kentucky, and had made some progress therein; but not having time to go through the same, had instructed him to ask for leave to sit again; which was granted.

The Senate received a message from the House of Representatives, announcing that they had adopted a resolution from the Senate, fixing a day for the election of Bank Officers, with an amendment.

The amendment was taken up and concurred in.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

And then the Senate adjourned.

FRIDAY, DECEMBER 19, 1823.

The Senate assembled.

Mr. Ewing presented the petition of the heirs of Henry Wolf, praying that a law may be passed authorising the sale and conveyance of a tract of land descended to them; which was read and referred to the committee for courts of justice.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice have, according to order, had under consideration a bill from the House of Representatives, entitled "an act for the benefit of Jacob Butler, and have come to the following resolution thereupon, to wit:

Resolved, That said bill *ought not to pass*.

Which was twice read and concurred in.

And the question being taken on reading the bill a third time, it was resolved in the negative; and so the said bill was rejected.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

The Senate received information, by the Secretary of State, that the Governor did, on the 15th inst. approve and sign an enrolled bill, which originated in the Senate, entitled "an act for the benefit of the heirs of Benjamin Beall and Janetta H. Beall, late of the county of Campbell." Also, on the 17th inst. enrolled bills of the following titles, viz. An act forming a new county out of parts of the counties of Hardin and Breckinridge, and an act to establish the county of Graves.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

Mr. Roper, from the committee for courts of justice, to whom was referred "a bill to regulate civil proceedings," reported the same with amendments, which were concurred in with amendments, and the bill ordered to be engrossed and read a third time.

The vote whereby the bill to repeal the act allowing postage to the Adjutant-General, and increasing his salary, was rejected, being re-considered, it was committed to Messrs. Ewing, Owens, Dawson, Duncan and Miller.

The Senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Gorin in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Gorin reported, that the committee had, according to order, resumed the consideration of a preamble and resolutions from the House of Representatives, in relation to the late decision of the Court of Appeals of this State on the replevin and endorsement laws, and the Supreme Court of the United States on the occupying claimant laws of Kentucky, and had gone through the same without amendment.

Whereupon the said preamble and resolutions were re-committed to the committee of the whole house on the state of the commonwealth, for to-morrow.

Mr. Howard read and laid on the table the following resolution, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky, That the Treasurer be directed to pay the claim of Joseph and

Thomas Rotch, or any part thereof, in Commonwealth's paper, at a fair exchange, not exceeding two for one.

The rule being dispensed with, it was taken up and adopted.

Ordered, That Mr. Lyon inform the House of Representatives thereof, and request their concurrence.

And then the Senate adjourned.

SATURDAY, DECEMBER 20, 1823.

The Senate assembled.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined sundry enrolled bills and resolutions of the following titles, to wit: An act to amend an act entitled "an act to incorporate the Turnpike Road Company from Louisville to Portland and Shippingport;" an act appointing trustees for the town of Fairfield, in Nelson county; an act establishing election precincts in the counties of Fayette, Harrison and Lawrence, and for other purposes; an act for the benefit of Jane Proctor and her children; an act for legalizing the proceedings of the county court of Warren, in laying the levy at November term 1823; an act to amend an act entitled "an act to incorporate the Cyntiana Library Company;" an act for the benefit of Chasteen T. Duniven, sheriff of Warren county, and resolutions requesting the attention of the general government to the subject of slaves belonging to citizens of the United States, who have or may escape into Canada; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills and resolutions.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee reported that they had performed that duty.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of a preamble and resolutions from the House of Representatives, in relation to the late decision of the Court of Appeals of this State on the replevin and endorsement laws, and the Supreme Court of the United States on the occupying claimant laws of Kentucky; and they were taken up and read as follows, to wit:

IN THE HOUSE OF REPRESENTATIVES, December, 1823.

THE late decision of the Court of Appeals, pronounced in the cases of Blair vs. Williams, and Lapsly vs. Brashear, having been referred to in the communication of the Governor, demands the attention of the legislature. In that decision the existing remedi-

al laws of the state, are declared to be unconstitutional and void, in relation to all contracts made anterior to their enactment. The principle which it establishes, whether viewed in relation to its practical effects upon society in its present embarrassed condition, or in relation to the exercise of legitimate power by the departments, according to its distribution and apportionment in the constitution of the state, is entitled to the calm and vigilant scrutiny of the legislature. And if upon such scrutiny those laws should be found to have been enacted in contravention of any provision of either the constitution of the state or that of the United States, they should be forthwith repealed, and their place supplied by valid enactments; but if, on the contrary, they should be found to be not in conflict with any restraint imposed upon legislative power, by either of the constitutions, and it should appear that the judges, in proclaiming them void, have transcended the limits assigned by the constitution to the exercise of judicial power, they should be informed of that fact, and admonished that their decision does not, as it ought not to vacate those laws. Their concurrence was not, by the constitution, necessary to their enactment; their *veto* cannot vacate them; and they themselves have declared, in the case of *Banks vs. Oden*, that "while they would feel it their duty to pronounce any act of the legislature void, which was manifestly in conflict with the constitution, they feel a strong disinclination to encroach upon the province of the legislature, by attempting to narrow its sphere of action, or thwart its will. They cannot do it by construction or intendment. The conflict of the law with the constitution, must be obvious and palpable, to induce them to make such declaration." (See 1st Marshall 551.) There is, therefore, high authority against the arrival, by construction, at the conclusion that a law is unconstitutional. The impulses of charity, and the dictates of reason, alike proclaim, that the judges, when they entertain doubts as to the constitutionality of a law, should presume that those who enacted it, were not less obliged than themselves, to preserve the constitution inviolate, and should give effect to the law. All the judges concur in the opinion, that the existing remedial laws are void, in relation to contracts which were in existence at the time of their enactment; one of them declares all laws to be void which authorise replevins or sales on credit, in any case whatever. Each supports his opinion by his construction of the 10th section of the first article of the constitution of the United States, which, in the latter clause of it, provides "that no state shall pass any law impairing the obligation of contracts." It will perhaps subserve the purposes of this inquiry into the correctness of the decision, and accord better with correct notions of fitness, that it should be confined mainly to the reasoning of the Chief Justice, as he is the official organ of that court. He enquires, first, what it is that con-

stitutes the *obligation* of a contract; and second, does the act of assembly impair that obligation? The act alluded to is that which allows a replevin of two years, when the endorsement that notes on the bank of the State, or Commonwealth, will be taken, is not made. In answer to the first question, he asserts, with the writers upon ethics, and the law of nature and nations, that obligations are, according to natural law, perfect or imperfect, and with them asserts, that the obligation to gratitude and benevolence is of the imperfect sort, and invests the person who claims the performance of its duties, with no right to exact it by force; that the performance of obligations of the perfect sort, may be exacted by violence on the part of the person to whom the obligation is incurred; that in civil society, the remedies afforded by the laws are in substitution of the violence, which might, according to natural law, have been used for the enforcement of obligations of the perfect sort; and that, therefore, the obligation of a contract consists *alone* in the remedy afforded by the laws for its enforcement, or in his own language, "the legal obligation of the contract evidently consists in the *remedy alone*. It can consist in *nothing else*; for if the remedy is withheld or taken away, the contract has no legal obligation."

He illustrates his position by the effect which the statute of frauds and perjuries, and the statute of limitations, have upon the cases of contract to which they apply, and asserts that the statutory denial of remedy to those cases, leaves them without any legal obligation. He instances also the case of simple contract without consideration, upon which at common law, no action will lie. In further illustration of his doctrine, he refers also to Evans' Pothier, part 2d, chapter 1st, as authority in its support.

The doctrine, and the cases cited and referred to for its illustration and support, remain to be examined. The doctrine of the Chief Justice in relation to perfect obligations, and the right of enforcing them by violence in a state of nature, according to natural law, is admitted to be correct, as is also his doctrine in relation to imperfect obligations. But it is insisted, that in the transition from a state of nature to the state of civil society, the obligatory force of moral obligations of the perfect sort, is not cancelled or annulled. On the contrary, the laws of nature, so far as they relate to moral obligations of that character, are incorporated in the municipal code, by the social compact, ratified and enforced by the laws of society, as the best rules of action in social intercourse. Indeed, they could not be annulled by society. They were enacted by the great Law-giver of the Universe, not for the temporary use of man, while in a state of nature; but for the regulation of his conduct, in every state of association of which he is capable. They form a part of his moral sense, are identified with it, and have the sanction of that reason with which he was endowed by

his beneficent Creator, as the rule of his conduct and his guide to happiness. His social propensities unite with his reason, in proclaiming the obligatory force of the laws of nature, of the obligations which they impose, and their irrevocable character. The laws of civil society, so far as they constitute the rules of right, are no other than the laws of nature more explicitly defined and suited in their re-enaction to the condition of the people who compose the society. Human laws, says Blackstone, are declaratory of the laws of nature.

Law, whether natural or municipal, is a rule of action, and its very existence implies the obligation, on the part of those on whom it is imposed as a rule, to conform to it. The obligation which is denominated *legal*, results from, and is imposed by the laws of civil society. But the laws of civil society are but declaratory of the laws of nature; therefore, the obligation which results from the laws of nature, results also from the laws of civil society. When considered as resulting from the former, it is binding only in conscience, and is denominated a moral obligation; but when considered as resulting from the latter, it is denominated a legal obligation, and is externally binding.

The purpose for which civil society is formed, is the general *security*, and the general *interests* of the *whole*, and its several *parts*. Every man, therefore, by consenting to make himself a member of civil society, agrees, tacitly or expressly, that these purposes shall be carried on, and that he will concur in carrying them on, by such measures as the common sense and understanding of society shall approve of and prescribe. Thus far, he is engaged only in a compact which obliges him by means of his own immediate consent, without which he would be no party to it, nor be in any way concerned in its obligation; but by this compact he gives society a *legislative power* over him; that is, he gives it a right to prescribe such rules for his conduct as the common understanding of society shall judge to be necessary, or conducive to the general good; and consequently, by the same compact, he obliges himself to observe those rules, when they are so prescribed. Those rules of right, and of conduct, comprising the laws of nature, sanctioned by the compact, and proclaimed either by the re-enaction of them by society, or by their adoption by immemorial usage, become in society the rules of external obligation as to all the individual and social duties of man in a state of civil society, and are obligatory upon all its members.

The right which individuals possessed in a state of nature, to enforce the performance of obligations of a perfect sort, having, by their entering into the social compact, been surrendered to civil society, constitutes its executive power, and is, unless otherwise disposed of by fundamental law, regulated by legislative prescriptions. It may be denominated the force of civil society, and

is mediately or immediately under the direction of its understanding. The discretion, which in a state of nature, was associated with the power exercised by individuals in the enforcement of perfect obligations, having been surrendered by the compact with that power, to civil society, constitutes the general understanding of the society, and is denominated its legislative power; and as, in a state of nature, it presided over, and directed the exertions of individual power, so in civil society it presides over and regulates executive power. The sovereign power of civil society, is, by many jurists, divided into legislative and executive. The power which others denominate judicial, is by them assigned to the executive department. The civil power of the state of Kentucky, has by its charter been assigned to three distinct bodies of magistracy; the legislative to one, the judicial to another, and the executive to a third. Neither is to exercise the power properly belonging to the other. The legislative, in Kentucky, as in all civil societies where it exists, is the ascendant power. It is limited only by the restraints upon its exercise, which are to be found in the constitution. By that instrument, it is constituted a check upon the other departments; they are amenable to the legislature, and the members of the legislature are amenable to the people, the legitimate source of sovereign power; hence the right of the legislature to enquire into the decision which purports to vacate legislative enactments, and to secure the legislative province from *invasion* from that quarter.

If the sentiment be correct, that the laws of nature are not repealed or vacated by the social compact; but recognized and more explicitly defined and promulgated in a state of civil society, than they were in a state of nature; and if it be true, that law imposes on those to whom it is prescribed, the obligation of conforming to it; then it would seem to follow, that the obligation of a contract between two persons in a state of nature, is deducible rather from that law of nature, which proclaims to man the necessity of complying with his just contracts, than from the right, which by the same law of nature, the other party to the contract has to exact by force a compliance with it. The obligatory force of the law upon the contracting parties, results from their freedom of agency, from their having as free agents deliberately assented to the contract, and from the necessary influence of volition upon the destiny of free agents. Besides, that man should be bound by the contract to which he has freely assented, is, even in a state of nature, necessary to the enjoyment of that social intercourse for which he was evidently formed, and of that happiness for which his organic conformation and intellectual endowments so eminently qualify him. His perfect obligation, therefore, to comply with such a contract, may surely be more fairly inferred from these considerations, than from the consideration that a compliance with

it, might be exacted by the use of violence. Again, the right to use violence for its enforcement is obviously *correlative* to the *obligation*, and *pre-supposes* its existence; for if there did not exist a perfect obligation, there could exist no right to exert violence, (as in the case of the imperfect obligations of benevolence and gratitude.) There would be nothing on which to predicate the right to use it. Thence it would seem obvious, that the right to use violence to enforce a perfect obligation, did not, even in a state of nature, constitute that obligation, but resulted from it, in its pre-existing state.

Let a case illustrate the doctrine: B, a hunter, is about to commence an expedition in pursuit of game. C, a trapper, has furs on hand which he is willing to exchange for skins. B needs the furs; they are necessary to his comfort during the expedition which he contemplates; but he is not in possession of the skins required by C, in exchange for them. C lets him have the furs, upon a contract that they are to be paid for in skins, when he returns from the contemplated expedition in which he expects to take them. B returns from his hunting expedition; has been unfortunate, and is unable to pay the skins; the time for their payment has expired. The obligation to pay them, is of the perfect sort; C has a right to exact reparation by violence. Does the right of C to use this violence, constitute the obligation of B's contract, or, does it result from the violation of the obligation of his contract? Most evidently from the latter.

Again, although C has a right to exact reparation by violence, is he bound to do it instantly? May he not, if he pleases, indulge B until he makes another hunting expedition, and if he should not be successful in that, another and another, until the skins can be obtained? And can his doing so be forbidden, either by reason or the charities of the human heart? Would it not, on the contrary, have the sanction of both? Let it be supposed that a contract analogous to the one just stated, has been entered into between two members of civil society. The obligation of the contract would not be less valid in the *civil* than in the *natural* state. But the right which the obligee had by the law of nature, to exact performance or reparation for non-performance by violent means, or to extend indulgence at his discretion, belongs, by the social compact, to the civil society of which he and the obligor are members. The understanding and the force of civil society, which constitutes its legislative, judicial and executive power, is composed solely of this right of indulging or of exacting by instant force, the performance of the perfect duties, which existed amongst men in a state of nature, but which they surrendered, when they became members of civil society.

In the case put between B and C, it cannot be asserted that it was incompetent for the latter to indulge the former. It must be admitted, that it was even reasonable and prudent in him to do

so; and if it was not only competent, but reasonable and discreet in him, to forbear force and extend indulgence; can it be contended that civil society, whose legislative and executive *remedial* power, consists of the very faculties which were competently, and with approbation, exercised in the former case, cannot exercise it in the latter?

Let it not be forgotten, that the violence which the obligee may, by the law of nature, exert to enforce a contract, is *discretionary* with him. He may exert it at any time, or in any manner, (not forbidden by the same law,) his judgment and discretion may dictate, upon a deliberate view of the condition of his debtor, of the efforts he has used, and the means he possesses of making payment. And is the understanding of civil society less to be confided in, as regards the exertion of its force in obtaining the performance of contracts, or reparation for their infraction, than that of individuals in a state of nature? If so, civil society should dissolve itself, and revert to a state of nature. The social compact implies an obligation, on the part of the sovereign, to provide for the administration of justice by remedial enactments. But as all, and each of the members of civil society, are equally interested in its well-being and prosperity, each stands obliged to claim only that justice, in his case, which may be afforded by the sovereign, compatibly with the justice which is due to *each* and *all* the other members of the community. Justice, therefore, is not, and cannot *justly* be administered in any particular case, without due regard to the condition of society, and the infinitely ramified relations inseparably connected with it, and the just claims which result from those relations. Civil society, however numerous its members may be, must, in the administration of justice, or, which is the same thing, in the enactment of remedial laws, be considered a homogeneous mass, and nothing can be justly done in relation to any *part*, which inflicts *injustice* upon the *whole*.

That contracts should be made, and credit extended, is according to the law of nature. The only dowry with which Heaven ushers mortals into existence, is their intellectual and muscular powers. These are bestowed in association with the mandate, that they are to be exerted in accordance with the laws of nature, or the laws of society, which are the same, in achievements necessary to human comfort, and conducive to social happiness. Each individual, to obtain subsistence, must anticipate his energies. He has no property; he has only the power of acquiring it by the sweat of his face—a denunciation not less plainly written in the volume of nature, than in the volume of revelation; he needs clothing and victuals; he must obtain them upon credit, or perish; but it would have been idle to have created him, just that he might perish in the dawn of existence; such a motive cannot, without sacrilege, be ascribed to the Great Supreme. Credit is, therefore,

sanctioned by the laws of nature, and of course by the laws of civil society. But credit is moreover essential to enterprize, and enterprize is essential to prosperity, individual and social.

Now, to prove that the Legislature, in its remedial enactments, should regard the relation sustained by the individual litigants, to the other members of society, and the interests, prosperity and happiness of the whole, in connexion with both, the following case is put: B, an enterprizing citizen, has, by his industry and skill, acquired property of the value of \$5,000; in the view still to increase his fortune and improve his condition, he obtains credit with C, D, E, F and G, and becomes indebted to each \$500; he is about to engage in a laudable enterprize, which promises flattering results, with which he makes them respectively acquainted; he hazards in the enterprize but half his fortune, reserving the other half as a reasonable competence for the sustenance of his wife and children, in the event that his enterprize fails; a sudden change takes place in the condition of society, or his vessel sinks in a storm, whereby the \$2,500, and his anticipated profits upon it, are lost; a sudden diminution or reflux of the circulating medium takes place; he is unable to pay his five creditors; the time for payment has elapsed; C, the first of them, is about to commence suit for his \$500; but the remaining half of his fortune will not, at an instant, forced sale, pay more than the amount of C's debt, such is the changed condition of society and of things; but if time were afforded him, he could, by his industry, enterprize and skill, be enabled to pay each of the five the amount due him, and have a little residuum for the support of his wife and children. His case is but a sample of the general condition of society. The change of things has affected all, or at least a great majority of the community, in something like the same way. What should be done? Ought not civil society so to change the remedial system, as to suit it to the changed condition of society? Or ought the existing system, which had in its enactment been suited to the most happy and prosperous state of things, to be retained, as the instrument of ruin and oppression; as the instrument, in the case put, of fraud upon the remaining four creditors of B, and of his entire ruin? Would the four creditors, in a state of nature, have permitted C to swallow up the total of B's property, in the payment of his debt, and leave them unpaid, and without the hope of being ever paid? Ought they to have done it? They would not, they ought not. They would have constrained C to unite with them in indulging B, to an extent that would have saved all their debts, and left him under the cheering influence of hope. And what they would not, and ought not to do, ought civil society to do?

Montesquieu lays it down as political orthodoxy, "that laws should be *relative* to the *nature* and *principle* of the government;

that they should be relative to the climate of each country, to the quality of its soil, to its situation and extent, to the manner of living of the inhabitants. They should have a relation to the degree of liberty which the constitution will bear; to their inclinations, riches, numbers, commerce, manners and customs," &c. The foregoing are laid down as the great principles of judicious legislation. They are illustrated and established, throughout his Spirit of Laws, a work which, by rescuing the science of government from the obscurity in which ignorance and superstition had involved it, conferred immortality upon its author.

The *principle* of a republic, is virtue; of a monarchy, is honor; and of despotism, is fear. Strange, that in a republic, the appellate court should have selected *fear*, the principle of *despotism*, as the *motive* to duty! But if the new doctrine be correct, the legislative power cannot be exerted in the enactment of laws, relatively, or suitably to the condition of society. Civil society must enjoy an exemption from the vicissitudes to which the Destinies have subjected the affairs of individuals, and of empires, or it must submit to the unmitigated rigor of those vicissitudes. Its condition in peace and war, in plenty and scarcity, health and disease, must remain the same. If the plague, the leprosy, or the small-pox, were to visit society, no law could be passed, providing for the segregation of the unhappy sufferers. It would be in violation, it may be supposed, of the obligation of the social compact. It would at least be an alteration of the existing laws in relation to social intercourse. The remedial system must remain the same, or it must, in the progress of its duration, be involved in inextricable perplexity; for it can only be altered prospectively.

But such has not been the understanding or practice of men, either in a state of nature or of civil society. The polished member of civilized and refined society is, and must, according to human destiny, be alike ignorant of future events, with the rude, untutored child of nature. The latter takes shelter in the nearest cave, from the impending storm; nor is he at all conscious, that his obligation to escape the storm, consisted in the shelter afforded by the cave, from its ravages; but he is very conscious, that if he were to intermit his pursuits, and remain in the cave during the calm which succeeds the storm, in the view to be availed of the same remedy against the like evil, he would have to expiate his folly in doing so, by his wants and his sufferings. Nor will he have lived long, before he will have learned, that although the seasons and their order of succession are fixed by fundamental law, yet that the weather in each is changeable and capricious; and that, although he may predicate the plans of his life upon the fixed and stable succession of the seasons, yet his labor must be often intermitted, and his plans thwarted, by the irregular changes of the weather in each season, which, not being able to foresee,

he could not guard against. He will learn from the volume of nature, what the Christian learns from that of inspiration, that the wind bloweth where it listeth, and that whence it cometh or whither it goeth no man knows. He will learn also, that clouds and storms of a desolating character, are often associated with its current; and he will find, that the happiness at which he aims, will be promoted, not less by his exertions to mitigate the effects of adverse and unforeseen occurrences, than by any efforts he could use, of a preventive or cautionary sort. All this will be learned alike by the member of civil society, as by the child of nature. Experience will have taught both; and the member of society will get to know, that the adverse occurrences to which he is liable in the civil state, are not better guarded against by the fundamental law of the civil constitution, than are the irregularities and caprices of the weather, by the stability of the seasons; and that refuge is to be found alone, in the wise exercise of that remedial power accorded in the constitution to the legislature.

What is human life, but an irregular series of remedial efforts, enjoined upon mortals by the resistless propensity of their nature, to ameliorate their condition? And does not reason sanction these efforts?

But why, it may be asked, were not the States, upon the formation of the constitution of the United States, melted down, and their existence abolished, if the doctrine be correct, that they cannot suit their remedial system, by varying it, to the varied condition of society? If one unaltered and unalterable system of laws was destined to regulate, in perpetuity, the concerns of the people of the republics of America; if the people in the State of Maine, and of Georgia, and of all the intermediate States, however different in manners, customs, pursuits and inclinations, inhabiting different soils, and influenced by different climates, could flourish and prosper under the same unvaried remedial system, why the afflicting expence of sustaining twenty-four different States, with the legislative, judicial and executive machineries of sovereignty? Why, under this hypothesis, are they taunted with the *mock* lineaments, contexture and aspect of sovereigns, when in *very deed* they are dwarf-vassals? Are the principles laid down by Montesquieu, vapid and illusory; and were the patriots who achieved the independence of the American States, and formed their respective constitutions, and that of the United States, deluded into the erroneous belief that those principles were correct, and had been verified by the experience of past ages? Were they mistaken, when they believed that Heaven had not assigned geographical limits to the potential extent of republican government; that all attempts, therefore, at its extension, had been abortive, *only* because in its spread it had not carried with its expansion the power and the machinery of local legislation? And were the State constitutions

formed, and the power of local legislation reserved in them to the respective States, in the same mistaken views? And was it reserved for the Judges to detect and proclaim the error; to ascertain that the great rules of right consist alone in the remedy; that the *only obligation* of a contract consists *alone* in the power to enforce it, which existed at the time it was made; to proclaim and enforce a doctrine which unnerves the legislative arm, paralyzes its power and throws it into a state of helpless inaction, of chemical fixation?

It is not unfair, when a doctrine so novel, and so extensively operative, is about to be propagated, to dwell a little upon its probable political effects. The governments of the United States and of the States, are, it must be acknowledged, dependent, for their existence and duration, upon the *will* of the good people who compose them. This dependence is settled by fundamental law. In each constitution the people have reserved to themselves, as an indefeasible right, the power to alter, amend or abolish the form of government thereby established. The will of men is very much influenced by their feelings and their affections. Their affections and their feelings have much to do in the formation of their opinions. The strength of these governments happily depends, not upon any system of physical force, contrived for their invigoration; but depends upon, and consists in the affections and will of the people who compose them. The right of suffrage throughout the States, with but few exceptions, is, as it ought to be, unqualified; consists alone in the unhampered exercise of matured discretion. Can it, therefore, accord with correct political principles, to diminish or to alienate the affections of the people from their government, by demanding of them "brick, and denying them straw"? Are not the affections of the people the *anchorage* of the government? Let it not be forgotten, that the affections of a people will always be found flowing in the channels of their interest.

Let this argument be illustrated by example. The staple of the State of Louisiana is sugar; that of the State of Mississippi, cotton; that of Ohio, flour; and of Virginia, tobacco. It has been already stated, that credit is necessary to individual and social prosperity; that man, to advance and prosper, must anticipate his energies, which can only be done by the exercise of that confidence which is essential to social intercourse. The sugar planters in Louisiana, the cotton growers in Mississippi, the farmers of Ohio, and the planters in Virginia, may, in every year, anticipate their crops, respectively. Anticipation to that extent, is not only allowable, but justifiable. Each confides in the Heavens, its dews, its rains and its sunshine. Its general course has been kindly, and invited confidence to that extent. But unexpectedly, a frost nips the cane, defeats the hopes and blasts the crop of the sugar planters, who compose the mass of the stable population of that

State; the weavel, the fly, or the rust, invades and desolates the wheat crops in the State of Ohio; the rot or the frost visits and destroys the cotton crops in the State of Mississippi; the worm besieges and destroys the growing tobacco in Virginia, and the armor worm marches across the plains of Kentucky, and desolates its fields and its meadows. The existing remedial systems, in these several States, were enacted in auspicious times, and suited to their prosperous condition; to the habitual kindness of the Heavens. What is to be done? Shall a single unseasonable frost in Louisiana, subject the sugar plantations of that State to instant sale under the hammer, and their proprietors to ruin? Is there no remedial power in that State, which can be exerted by its legislature, to avert so great a calamity? Is the sovereign remedial power of Virginia to be vanquished by the tobacco worm? Can the armor worm conquer the State of Kentucky, and *disarm* it of its remedial energies? And must the legislative remedial power of the great State of Ohio, yield to the force of the feeblest and most contemptible insect tribes? The effects of a late frost, or of a long protracted rain, upon the cotton of Mississippi, must remain alike remediless. And must the good people of these States be told, that there exists no power in their governments to soften the rigor of these visitations—visitations which, if they cannot be softened by remedial enactments, must eventuate in the ruin of the great body of the stable population of these States, and in the alienation of their affections from that government, by the sternness of whose indifference to their calamities, they will suppose themselves to have been destroyed? They will have been made, from good citizens, in whose affections the government had its best anchorage—an anchorage guaranteed by all the domiciliary sanctities—enemies to their government, adventurers, ready to flock to the standard of experiment or revolt. They may gain; they cannot lose. They have lost their homes, their fire-sides and their altars, with which their patriotism was identified. They had a government, they had a country; they have now neither, they have both to seek. The force with which David subverted the empire of Saul, was of that description. "And David therefore departed thence, and escaped to the cave Adullam, and every one that was in distress, and every one that was in debt, and every one that was discontented, gathered themselves unto him, and he became a captain over them," &c. (1st Saml. chap. 22d, v. 1, 2.) The dangerous impolicy of the doctrine, ought not, it is believed, to have been without its weight with the judges, when they were advancing by *construction* to its establishment.

The power of enacting remedial laws, is not indeed denied in terms to the legislature; they are *permitted*, say two of the judges, to enact them prospectively; but in the cases just put, and indeed in all the cases in which, to avoid public calamity, the exercise

of the remedial power would be necessary, or could be useful, it must be exerted in mitigation of the influence of unforeseen and unexpected events, upon existing contracts. The power accorded by a majority of the judges to the state, never could be wisely exercised in relation to those upon whose contracts it would operate; they would have been made with such a knowledge of the existing pressure, as would not entitle those bound by them, to exemption from it. To say to a great portion of a community, who had become indebted by a reasonable anticipation of their resources, and were about to be ruined by an unexpected revolution in the state of affairs, that the rigor of their condition could not be alleviated; that the sovereign power of the state could not be exerted to soften it; that their calamities, although unexpected, and of a character that prudence could not have averted, must be borne, if it should even grind them to dust; that the remedial power of the state could only be exerted prospectively—exerted so as not to benefit or save them, but to benefit and save their creditors, and speculators, who might grow rich by their irremediable ruin: For a state thus to speak to her afflicted citizens, would be ungracious at least, as it related to them, and somewhat humiliating, as it related to herself. The power accorded by the judges to the legislature, is the power of enacting a remedial system in times of great public calamity, not for the purpose or in the view of saving the citizens of the state from ruin by its pressure, but for the purpose of being used, when calamity, its causes and effects, shall have passed away; that is, when it would be inappropriate, and would not be needed. It is not, therefore, unworthy of remark, that the permission conceded by the two Judges to the legislature, to enact remedial laws prospectively, is in effect, in consonance with the opinion of the third Judge, which denies to this department, the power to enact remedial laws. For having denied the exercise of it to the states, in the only cases, and under the only circumstances in which there could exist a motive to exercise it, their permission of the power, where it would be inexpedient and even silly to exercise it, can be neither more nor less than a disguised denial of it. It is, to say the best of it, giving to the people a stone, when they ask for bread.

But there are other aspects of the opinion, believed to be irreconcilable with principles of political orthodoxy. It is of the essence of sovereign power, that there shall exist no restraints upon its exercise, other than those imposed by the laws of its existence; that it shall know no restraint upon its exercise, which is not found in fundamental law, or in its own discretion. When, therefore, it is restrained from action, or restricted in its agency by any other cause or power, it ceases to be sovereign, and acknowledges the power by which it is restrained, to be para-

mount. The restraining power must, in the nature of things, (so far at least, as it relates to itself and the power restrained,) be sovereign; and the power restrained must, on the same principles, be vassal. According to the opinion of the court, any two citizens of the state, may, by contract, oblige the state to retain the remedial system existing at the time of its date, until it shall *please* the one or the other to resort to the forum, for its enforcement, or for reparation for its infraction. Though the contract be executory, and not to be performed for twenty, or even thirty years thereafter, if the state shall, in its advancement in science and refinement, have found it necessary to repeal the system, the repeal is to go for nothing, as it relates to creditors by contract anterior to its repeal. They will have the right to exact from the state a recovery of their claims, according to the long since exploded, and perhaps forgotten system. It is not less a rule of law, than of good sense, that a law by its repeal goes into non-existence, and cannot be afterwards efficient; that all proceedings depending upon a law at the time of its repeal, fall with it, unless there be a saving in the repealing statute in their favor. But this rule is reversed by the decision, and a repealed statute is either *not* repealed, or it is *re-enacted* by the court. Either the state have not the power to repeal it, in relation to creditors of that description, or the court has the power to re-enact it, in their favor. But not only have any two citizens of the state, this control over the sovereign power which it possesses, but any two, of any state, nation or kingdom, have the like power; so that the sovereign legislative power of the state, may be exerted in the alteration or amendment of its laws, subject to the *supervision and control of creditors*, alien or domestic, civilized or savage. This limitation upon the exercise of legislative power, cannot be viewed in any other light than as a *courteous* denial of it. For when it is considered that the relation of debtor and creditor is one of continuous and unceasing recurrence, throughout the societies of the civilized world; that the same person is almost always debtor, as well as creditor; that the same persons are debtors, as well as creditors, under contracts of different dates, and of all possible modifications; the relation of debtor and creditor will present itself to the view of intelligence, as a fiducial stream, which, like the natural, consists of confluent globules, incapable of separation, for any useful or practicable purpose, within the scope of legislative power; for society never can be divided into two classes, the one debtor, the other creditor. The waters of the ocean might as readily be divided, the salt, from the fresh.

Each of the Judges condescends to notice, in the division of the subject, the constitution of the state; but each seems to have extracted enough, by the process of construction, from the 10th section of the 1st article of the constitution of the United

States, to vacate the State laws, and to invalidate the power employed in their enactment. The third Judge does indeed invoke to the aid of his construction of that section, the ephemeral effusions of the revolutionary period of the American history, not excepting even the querulous ebullitions of foreign ministers. But neither condescends to show, by reference to, or comment on the provisions of the State constitution, that his construction of the former is in harmony with, or is supported by the latter. The 13th section of the 10th article of the constitution of the State of Kentucky, is the part of that instrument to which they are presumed to have alluded. It is in the following words: "That courts shall be open, and every person, for an injury done him in his lands, goods, person or reputation, shall have *remedy by due course of law*, and right and justice administered, without sale, denial or delay;" which should be considered in connexion with the 14th section, which immediately follows it, and is in these words: "That no power of suspending laws, shall be exercised, except by the legislature or its authority." These two clauses are evidently and emphatically addressed to the judiciary. By the first, the duty of administering justice by the *due course of law*, without sale, denial or delay, is enjoined upon the judges. They are not to *make laws*, or *repeal laws*; but are to administer justice according to the laws, by due course of law. The laws enacted by the legislature, are to form the rule of decision. They cannot repeal or suspend them; they must conform to them in all their adjudications, unless indeed the laws are *obviously* and *palpably* unconstitutional. But the Judges have, in this case, not only repealed the laws of their State; but they have repealed the 14th article, last above quoted, of the constitution of their State. They have, moreover, re-enacted laws which have been repealed; and two of them have invested themselves with this power by elaborate and lengthy disquisitions of an abstract and metaphysical character. The third is as blunt, as he is bold, in the vacation of the laws of his State. But ought they not, it may be asked, to have displayed, in the process of their construction, some regard to the opinions of the sages and patriots who have spoken and acted on this subject? Was the judgment of the Convention who formed the State constitution, and of the Congress who explored it, and admitted Kentucky into the Union as an independent State, upon the conviction that her constitution was not incompatible with that of the United States, strengthened, too, by the approving intellection of the State, under the most solemn sanctions, in its practical exposition, during a period of twenty-four years, unworthy of their regard? Should these considerations have been lightly considered? Should they have weighed nothing with the Judges, especially when they were travelling the devious path of dubious construc-

tion—a path for which they had left the well beat and long trodden highway?

In the formation of the State constitution, the best, the most experienced intellect of Kentucky was employed. The members of the Convention had before them the constitution of the United States. They were invoked by their own interests, their own rights, by the interests, prosperity and rights of their offspring and of posterity, by all the solemn considerations which are associated in the human mind with the blessings of civil liberty and a republican, the best form of civil government, to explore well the ground which they occupied, and so to define and establish the rights of Kentucky, that they might co-exist, harmoniously, with the pre-established rights of the United States. And can it be supposed, that the discovery now made by the three Judges, escaped, not only their research, but the research and observation of the Congress of the United States, by whose solemn act the constitution of Kentucky was approved, and she thereon admitted into the Union? How did it happen, that this discovery was not made by these Judges, or their predecessors, during the last twenty-four years? How happened it, that the enlightened State of Virginia, has been violating the obligation of contracts, since the year 1748, and that none of her judges and statesmen had the acumen to discover it? How did it happen, that all the States committed the like violation of the obligation of contracts, during the pressure occasioned by the embargo, and that occasioned afterwards by the war, in their remedial enactments, and that there was not discernment enough among the American people, to make the discovery and proclaim the wrong? Were the discoveries of their wisdom stifled by the impulses of their patriotism, during those trying junctures; and was it therefore reserved to the appellate court of Kentucky, to promulgate the discovery at *this time*, when the practical utility and intrinsic strength of the principle might be displayed in the instant prostration of a remedial system, which the legislature of the State, under the illusion that it possessed the power, had, by a series of successive annual enactments, accommodated to the condition of embarrassment into which the people had been unexpectedly thrown, by causes not within their control?

It is true, the United States' Bank did not exist, during all the time referred to, in that almost boundless amplitude of dimension, in which it has seemed latterly to have been arrayed, on the part, and under the fostering care of the national courts, against the States. That is a monied institution, and (as money is power) of course an institution of power commensurate with its capital. Its motto is, "Pay me that thou owest me." A rigid punctuality (but ill according with the agricultural habits, and varying condition and resources of most of the States) is exacted by that insti-

tution. From it, therefore, such an exposition of the 10th section of the 1st article of the constitution, as would, by paralysing the sovereign power of the States, remove all impediments to its operation, according to the laws of its nature and contexture, might have been expected. It is formed to prosper only by the *metallic* punctuality, which it enforces with remorseless rigor. Its doctrines and faculties are favorable only to commerce, and to commercial societies.

It is not intended to be intimated that the decision was formed under any conscious influence from that quarter. Impurity of motive is not ascribed to the Judges; but, as the consequences of an erroneous opinion may be as injurious to society as a corrupt one, society is under no more obligation to submit to a palpably erroneous opinion, if it be extensively and radically injurious, than to an obviously corrupt one; although it may be believed that the Judges who delivered the former, are, as in this case, incapable of the latter. When error, associated with purity of motive, emanates from the judicial department, the question should be, can it be tolerated compatibly with the great and substantial rights and interests of the community? If it can, it should be connived at; if it cannot, it should be combatted and refuted; at least, it should be denied the power of propagating itself. The decision, to say the least of it, is believed to be of that character.

The suppositon, that the remedy alone constitutes the obligation of a contract, is predicated upon an entire want of confidence amongst men; upon the extinction in the human heart, not only of all its honorable and honest sensations, of all its love of justice, and of all its charitable impulses, but of all its social tendencies; a predication at war with the first principles of civil government. Confidence is the principle of cohesion in society. Its function in the moral region, is analogous to that of gravitation in the natural. It is the offspring of the social, selfish and religious tendencies and bias of human nature. The decision takes it for granted, that in all contracts, the parties, instead of confiding in the honesty, capacity and punctuality of each other, confide alone in the power of the government, as displayed in the existing remedial laws, to coerce performance; that is, that every contract is made, not only with the knowledge on the part of the creditor, that it will be violated, but with the intention, on the part of the debtor, to violate it; and of course, that the creditor contracts for the purchase of a law-suit, in which he holds the State *bound* to let him have the *very identical law* for which he contracted; the law which he purchased from his debtor, and for the payment of which, *in kind*, the State was *bound* as his *security*. The tendency of such a doctrine to demoralize the people, its anti-social and degrading tendency, must be too obvious to require illustration. The old maxim, "that the law abhors a multiplicity of suits," is reversed

by this decision; and the rules and the legal machinery of litigation, are made *negotiable*, and proclaimed as the *obligation* of contracts.

There is a striking peculiarity of doctrine proclaimed by the decision, which has not been yet noticed; and that is, that the existing shape of the remedy at the date of the contract is binding upon the debtor, and upon the state, but not upon the creditor. He may, at his option, vacate or affirm the law altering the remedy, which constituted, according to the decision, the obligation of his contract, on the ground that it is unconstitutional and void; yet the law which is thus void, absolutely so, shall be valid, if he shall so choose; and though absolutely void, shall bind the debtor and his security in a replevin bond, taken under it, until the creditor shall deign to indicate his *will* to the contrary. If a contract shall be made when the law allows a replevy of three months; a law repealing that, and allowing a replevy of twelve months, is unconstitutional and void, if the creditor shall so choose, and his debtor must be subjected to instant execution. He cannot replevy for three months, because the law allowing that length of replevy has been repealed. He cannot replevy for twelve months, because the time fixed in the remedy which existed at the date of the contract was three months. Its repeal was not unconstitutional and void, as relates to the debtor; because, say the court gravely, its repeal is *beneficial* to the creditor. If the law allowing a twelve months' replevy be repealed, the debtor upon a contract made during its existence, cannot be availed of its provisions; because, say the court again gravely, its repeal is *beneficial* to the creditor.

The old doctrine of the law, of reason and of philosophy, that it is of the essence of a contract, that it be *mutual* and *reciprocal* in its obligation; that it be binding upon *both*, or upon *neither*, is reversed and vacated by the decision, which seems throughout *only* to require that the debtor shall be bound to the creditor.

But if time be an item of any importance in a contract, and the remedial system under which it is made forms the total of its obligation, then an abridgement or abolition by the legislature, of the length of replevin to which the debtor was entitled by law at the date of the contract, must, according to any fair reasoning, be as unconstitutional and injurious to the debtor, as its enlargement or prolongation would be to the creditor. The alteration of the time either way, must be *valid* or *void*, as to *both* or *neither*. If the creditor contracted in the view, not of being paid by the time stipulated in the contract, but the time stipulated, or rather designated in the remedial law, then the debt is evidently not due, until the expiration of the time designated in that law.

But this new doctrine is either not well understood by the court, or they have been unfortunate in the developement of it. While

they say that the existing remedial system forms alone the obligation of contracts, they say that the law establishing the courts, and arranging their sessions, is no part of the remedial system; and therefore, they permit the legislature to alter the judicial system at pleasure; to increase or diminish the number of terms or sessions in the year; to reduce them to *one* in the *year* or *one* in *two years*, without impinging upon the constitution of the United States. And why is not this law arranging the courts, a part of the remedial system? Let the Chief Justice answer: "Because the *obligation* of a contract consists in the *remedy*, and not in the court which administers the remedy; and that, though the courts may be altered, or the times and places of holding them may be changed, the remedy will be the same. It is true, that the remedy will be thereby affected; but that can only result as an *indirect* or *collateral* consequence." One would suppose, that the parties, when forming a contract, would not, at the time they were contemplating the remedial system as the obligation of it, be so entirely abstract as to overlook the Judges and their agency in the enforcement of it. They would be apt to consider them as the chief actors in the remedial drama. To consider the remedy as the obligation of a contract, without considering the forum, or the judicial system, according to which it is to be administered, is marvellously abstract. It is to suppose that a violent fever may be reduced by the contemplation of the lancet, without its actual use in venesection; that the remedy for the disease consists in the theory of the healing art, and that the presence and agency of the doctor in the actual administration of medicine, constitutes no part of the remedy; that it is alike indifferent to the sick man, whether he shall be visited once, or three times a month, by the physician. His visits and agency are but indirectly and collaterally connected with his cure, or rather with the remedy which is to produce his cure. The doctrine, that the judicial is no part of the remedial system, is one upon which courts may be dispensed with altogether; for if their presence and agency is no part of the remedy, and the remedy constitutes alone the obligation of the contract, then their presence may be dispensed with altogether, without impairing that obligation.

The Judges were driven to the necessity of asserting that the judicial was no part of the remedial system; for if they had admitted that the judicial formed a part of the remedial system, then, according to their own theory, if the Legislature should ordain that there should hereafter be but one, in place of three terms of the court in each year, it would be competent for the creditors in all existing contracts, to order the courts to sit three times in each year, and we should have four in place of one term in every year; *three ordained by the creditors and one by the Legis-*

lature. The Judges would then also, alike with the Legislature, be under the control of creditors.

But this is not the sense in which the great body of the community has viewed this matter. They consider the remedial machinery and agency of the government, as the *life* and *soul* of the remedial system. They believe that the essence of the remedy consists mainly in its practical application; and that it might as well not exist, as exist, and not be administered.

The farmer knows that the remedy for the weeds which infest his fields, is not in the plough, the hoe and the team, but in the seasonable use and application of them; and that his crop is not to be affected indirectly and collaterally only, if he uses them but once, in place of three or four times during the season. But if he shall have experienced, by providential visitation or otherwise, a loss of a portion of his team or a diminution of his laboring hands, he will be constrained to use the plough and the hoe less frequently towards the extermination of the weeds, than he had inclined or intended to do, or would have done under more prosperous circumstances.

But there is an obvious distinction in the nature of things, between right and remedy. The laws which relate to right, enter into and form an essential part of the obligation of every contract, and cannot be altered without impairing it; the laws of remedy, are in the breast of the legislature, and may be altered or amended as its discretion shall direct. This has been attempted to be shown, (it is hoped successfully,) by inferences drawn from first principles. It will now be considered upon the ground of authority. The first case referred to, will be found in 1st Bibb, 561-9. It is the opinion of the appellate court of Kentucky, composed of Justices Bibb, Boyle, Wallace and Trimble. It is in the following words:

"Upon the propriety of the remedy by petition and summons in this case, notwithstanding the specialty was given previous to the statute, we can have *no doubt*. The statute is general as to the description of direct debts, whether they have commenced before, or shall exist after the passage thereof. The statute does not change the *essence* of the contract; it is the *mode* of recovery only which is changed. If the proper distinction is observed between those laws which have reference to the *essence, nature, construction or extent* of the contract, and those which have reference only to the *mode of enforcing* the contract, the question will be plain. The *lex temporis* must be regarded in giving a decision upon the *essence and nature* of the contract. The laws existing at the time of seeking to enforce the contract, must govern and determine the kind of suit which may be brought. The means afforded by the laws for enforcing a contract in case of breach or non-compliance, make no part of the contract. If the parties to the contract act in good

faith, they intend to perform the stipulations, and therefore cannot be supposed to have *stipulated for dilatory proceedings*, in a suit for enforcing the contract. The *modes of bringing suit*, and of *execution*, are distinct from, and make no part of the contract itself. They *do not enter into the essence of the contract*. So the forms of suit, and of execution, in our own country, at this time or at that, make no part of a contract at the one time or at the other, and the legislature are at liberty to adopt this or that mode of *enforcing contracts*, which the *circumstances of the country* may suggest as expedient."

This doctrine was afterwards reiterated and affirmed by the same court, in the case of Rearden vs. Searcy's heirs, reported in 2d Bibb, 202-3. The court was then composed of Chief Justice Boyle and Justices Wallace, Logan and Clark. The following is their opinion, so far as relates to this subject:

"It is *certainly a well settled rule*, that the law at the time the contract is made, composes a part of it, so far as relates to the *nature and construction of such contract*; but *equally well settled*, that the *remedy to enforce such contract*, must be *according to the law in force at the time such remedy is sought*. The subjecting property to execution, which was not so at the time the contract was made, does not in the *slightest degree impair the contract*; it only extends and enlarges the *remedy*. Contracts are not made with an eye to the *laws that shall enforce them*, or to what property shall, or shall not be liable to execution; but with an expectation of each party's performing with *good faith*, what he has *stipulated to do*."

This distinction between *right* and *remedy*, thus solemnly uttered and reiterated from the appellate tribunal of the state, with the sanction and concurrence of the Chief Justice, is noticed by him in the late decision, with the passing remark, that the point settled in the former case, was, that a contract for the direct payment of money, entered into before the passage of the petition and summons law, might be enforced under the provisions of that law; and that in the latter case, the point settled was, that lands might be sold under execution for the payment of debts contracted before the passage of the law subjecting lands to sale under execution for the payment of debts.

It seems to have escaped the recollection of the Chief Justice, that he had, with his brother Justices, in the case of Graves vs. Graves' executor, affirmed the distinction between *right* and *remedy*, so strongly and so justly taken in the two cases just quoted. The opinion in that case was penned and delivered by the Chief Justice himself, and is to be found in 2d Bibb, 208. His language in relation to the doctrine of *right* and *remedy* follows: "With respect to the *nature and construction of contracts* and the *rights and obligations of parties arising out of them*, the *principle is well*

settled, that the law of the place where the contracts were made is to govern; but with regard to the *remedy*, the *principle* is *equally well established*, that the law of the country where the contract is sought to be enforced ought to be the rule of decision. The statute of limitations does not affect the *validity* of the contract, but the time of enforcing it; or, in other words, it does not *destroy* the right, but *withholds* the *remedy*."

Wherever we find the remedial power to exist, whether among erratic hordes in a state of nature, or among people in civil society, we find it exercised according to the discretion of those in whose hands it is placed. In the case of the Bank of Columbia vs. Okely, reported in 4th Wheaton 244-5, the appellate court of the United States hold the following language on this subject: "In giving this opinion, we attach no importance to the idea of this being a chartered right in the Bank. It is the *remedy*, and not the *right*; and *as such*, we have no doubt of its being subject to the *will* of Congress. The forms of administering justice, and the *duties* and *powers* of courts, as incident to the *exercise* of a branch of *sovereign power*, must ever be subject to *legislative will*, and the power over them is *unalienable*, so as to bind *subsequent* legislatures." And in the same book (page 200-1,) the same court, in the case of Crowningshield, vs. Sturges, speaks as follows upon this subject: "But a still more satisfactory argument is, that the convention did not intend to prohibit the passage of insolvent laws. To punish *honest insolvency* by imprisonment for life, and to make this a constitutional principle, would be an *excess of inhumanity*, which will not readily be imputed to the illustrious patriots who formed our constitution, nor to the people who adopted it. The distinction between the *obligation* of a contract and the *remedy* given by the *Legislature* to enforce that obligation, has been taken at the bar, and *exists* in the *nature of things*. Without *impairing* the *obligation* of contracts, the *remedy* may certainly be *modified* as the *wisdom* of the nation shall direct. Confinement of the debtor may be a punishment for not performing his contract, or may be allowed as a means of inducing him to perform it. But the state may refuse to inflict this punishment, or may withhold this means, and leave the contract in *full force*. Imprisonment is no part of the contract, and simply to release the prisoner does not *impair* its *obligation*."

The doctrine recognized in the cases just quoted from Wheaton, was affirmed by the Supreme Court of the United States, in the case of M'Millan vs. M'Neil, reported in the same volume; the case which the Chief Justice finds so difficult to understand, and therefore devotes it to the fate which he inflicts upon the remedial laws of the State, repeals and vacates it. In that case, the Supreme Court, pursuing the distinction laid down in the case of Crowningshield vs. Sturges, between right and remedy, determin-

ed that a law of the State of Louisiana, which provides that a debtor who shall surrender his effects for the benefit of his creditors, shall be absolved from the payment of all the debts which he may owe at the time of such surrender, was unconstitutional, whether the debts thus declared to be discharged were contracted before or after the passage of that law. Whether passed before or after the contract was made, could not be material; for by the contract, the creditor had a right to his money, and to recover it, according to the remedial laws of that State. But the law discharged the debtor from the payment of it, and therefore, no matter when it passed, impaired, or rather destroyed the obligation of the contract, and was therefore void. The law evidently went to the extinction of the *right*, and not to the modification of the *remedy*. The Chief Justice, having taken it for granted, that the only law of right was to be found in the law of remedy, and mistaking the law of Louisiana for a law entirely remedial, and having settled it in his own mind, that a remedial law might be enacted to operate prospectively, and the contract in that case having been made after the passage of the law, he was at a loss to see why it should not operate upon the contract, so as to discharge its obligation, the obligation consisting, according to his theory, in the *remedy* alone. He seems to have overlooked the laws which regulate right, and enter into the essence of the obligation of contracts, in the expectation of finding that obligation in the laws of remedy.

The laws of nature, when well understood, are the perfection of reason; the common law is the perfection of reason; therefore, the laws of nature and the common law are the same. The common law is made, by the constitution which adopts it, the law of this State. Whatever duties, therefore, the laws of nature exact from the conscience of man, in relation to obligations of the perfect sort, the common law makes the same exactions, and gives to the obligation legal force and effect, or, as jurists say, unites the external to the internal obligation, and binds the parties to the performance of it.

The common law rules in relation to the validity, obligatory force and binding effect of contracts, are known to all lawyers; though all may not have traced them up to the laws of nature, their true and legitimate source. Those rules require, that the parties to a contract, must be able to contract; that is, they must have arrived at the age which indicates competent maturity of discretion; they must not labor under disability, at the time of contracting; they must possess sanity of mind and memory; they must be in a situation to exercise freedom of will, and they must exert that freedom of will, in the formation of the contract. The subject-matter of the contract must be legitimate, unforbidden by conscience, or, what is the same thing, law; for

law and conscience unite in the consecration of all the ingredients which enter into the essence of a contract in civil society. These are some of the rules of law, in relation to the validity of contracts, which cannot be impaired by any legislative enactment. From these the legal obligation of a contract flows; and the remedy furnished by the legislature, instead of constituting the legal obligation, is only to be used, when that obligation has been violated, to obtain reparation for its infraction. The appellate court would seem to have mistaken the means, for the end; the effect, for the cause; the remedy, for the disease. A broken contract, a violated obligation, is the disease; the legislature enacts the remedial laws; the courts administer them, and the cure is effected. The process is sometimes rapid, and sometimes tardy; and more or less so, according to the morbid or salubrious state of the social atmosphere. This radical mistake into which the court has fallen, in relation to the laws of *right* and remedy, runs through the decision, and taints all the illustrations which it employs.

The first case selected by the Chief Justice, to illustrate the new theory, is that of a parol contract for land under the statute of frauds and perjuries; which, he says, is not obligatory, because the statute denies remedy for its *violation*. He forgets that the very denial of the remedy, is an implied admission of the contract. Indeed, the statute is predicated upon, not only the tacit admission, but the avowed fact, that those contracts possessed at common law inherent legal obligation; and the statute denies remedy to cases of that kind, not because of their destitution of legal obligation, but because, in the application of the remedy for their infraction, there was danger that more injustice would be done, by perjuries and frauds, in its application, than by withholding it; and even since the statute, where a contract of that character has been so sanctioned by part performance, that the fraudulence of refusing to complete it, overbalances the dangers of the frauds contemplated by the statute; or where the danger of the perjuries contemplated by the statute, is avoided by the admission of the contract by the defendant in his answer, their intrinsic legal obligation is recognized, and they are decreed to be carried into effect, by all the courts in England and America, where technicality has not the ascendancy over great first principles.

The Chief Justice was not less unfortunate in his illustrative selection of the statute of limitations. That statute *decrees* or withholds the remedy, not upon the ground that the remedy is the legal obligation of the contract which it bars, but upon the presumption that the obligation has been discharged by payment. The reasonable presumption in relation to every man, is, that he will be attentive to his interests. The obligee is presumed, from the length of time in which he has forborne to assert claim, to have no claim; or, in other words, the claim which he

had, is presumed to have been discharged; and therefore, and not because the contract had no legal obligation other than the remedy, the remedy is withheld by the statute.

The quotation from Pothier, will be found, upon examination, not to have been more felicitous than the last. That author, who deserves the eulogies bestowed upon him by the Chief Justice, divides obligations into three classes: 1st, Natural and civil; 2d, Civil obligations; 3d, Natural obligations. "Obligations are commonly (he says) both *civil* and *natural*. There are, however, some which are merely *civil obligations*, without being also natural, to the performance of which, the debtor may be constrained by law, although they are *not binding in conscience*. Such is the obligation which results from a judgment, erroneous in law, or fact, when the time within which it might have been reversed, is past; or from an unjust judgment, from which there is no appeal. In either case, the defendant is *bound* by the judgment, and may be *constrained by legal means*, to pay what in conscience he does not owe. It is the *authority* of the *judgment*, *rei judicatæ*, which forms this *obligation*." The obligations which are natural and civil, are the common cases of contract, above alluded to, in which the obligation of common law unites with the obligation of conscience, and constitutes the *legal obligation*, which the appellate court think is only to be found in the remedy. The case quoted by the Chief Justice, is of a merely *civil obligation*, *vinculum juris*, and is exemplified by Pothier, in the case of a judgment at law, which is erroneous, but which, owing to lapse of time, or some other cause, cannot be reversed; in which case, he tells us, the defendant is *bound*, not by the *remedy*, but by the *judgment*, and may be *constrained by legal means* to pay it. By the *judgment* he is *bound*; the *obligation*, then, is in the *judgment*, and not in the *remedy*. He may be *constrained by legal means*, (*viz.* the *remedy*) to discharge the *judgment* by which he is bound, in which this *merely civil obligation exists*. Natural obligations are binding only in honor; but according to the Chief Justice, natural and civil obligations are, *per se*, of the same sort, and have no legal obligation but what is to be found in the remedy. When a suit is commenced upon a contract, that contract is either obligatory, or it is not obligatory. If it is not obligatory, the suit is fruitless; no judgment can be pronounced upon it. If it is obligatory, the suit is brought because its obligation has been violated, not because the remedy has been violated. The remedy is afforded only upon the predication that the obligation has been broken. When the case comes before the Judge, he does not look forward into the laws which regulate the process of remedy; but he looks upon the contract, the situation and condition of the parties, the circumstances under which it was made, the fairness practised by each party in the formation of it, and he ascertains by this kind of ex-

amnation, what was the *will* and intention of the parties, in relation to the subject-matter of the contract, and thus ascertains the nature and extent of the obligation; for *will* is at the *root* of all obligation. He next ascertains, by the appropriate inquiries, that the obligation has been violated, and applies the remedy afforded by the legislature, according to the remedial laws. It would certainly be idle in the Judge, before he had ascertained that such obligation had been incurred by either party to the contract, to enquire what kind of execution might be issued; whether it could be stayed by writ of error, suspended or replevied; and that too with the intent of ascertaining whether he had by his contract, incurred any obligation. It would be to invert the order of nature, to mistake the consequences, for the cause. Execution is most evidently *not* the *cause*, but the consequence of judgment. We would smile at the man, and deride his pretensions to philosophy, who would tell us that the prolific and vivifying influences of light and heat, produced in the sun the power, and imposed upon it the duty of emitting light and heat; that the solar concoctions, with which our senses are regaled, were the *cause*, and not the *effect* of solar radiance. The benign influences of a wise remedial system, in civil society, upon the condition of its members, may be assimilated to the *effects* of physical *causes* upon the material world.

The remedial systems throughout the civilized world, are predicated upon the fact, that the contracting parties confide in each other, that each will perform his contract according to its stipulations, within the time agreed upon, and that neither of them looks to, or thinks of the existing remedial system, as constituting the *obligation* which he incurs by the *contract*; and that the legislature possesses the power of altering or amending that system, as experience or emergencies shall dictate the propriety of doing so. This course has the sanction of reason as well as practice; it is even enjoined by necessity; for when a stipulation for a performance within a given time, has been violated, no sovereign of which we can conceive, can compel its performance *within the time*. It is irreclaimably gone; it is with the days beyond the flood. All that the sovereign can do, is to award to the creditor an equivalent for the injury inflicted upon him by its violation.

If the obligation of the contract, so far as relates to the *time* of its performance, is the time of replevin allowed by law, then the suit must always be instituted before the obligation is violated in that particular, which is believed to be inadmissible, if not absurd; for it is a *settled rule* of *law*, as well as of *reason*, that a suit for the violation of the obligation of a contract, cannot be instituted, until the time for its performance has passed away.

Believing, therefore, that the decision of the court of appeals displays an exertion of judicial power, not conceded to that department

by the constitution of the State, greatly injurious, if not ruinous in its practical effects, to very many of the good citizens of this state, and incompatible, in the principle which it asserts, with the great and essential rights of civil liberty, with the fundamental principles of republican government, and with the best interests, prosperity and happiness of the community, which are, and indeed must forever remain indissolubly associated with those sacred principles, the members of the legislature, while they admit the power of the court to declare any law unconstitutional and void, which is *obviously* and *palpably* so, feel themselves reluctantly constrained by the most solemn obligations of duty—obligations of duty to themselves, to their constituents, to posterity, and to the principles of rational liberty throughout the civilized world, to make their deliberate protest against the *erroneous* and *usurping* doctrines of that decision. Whereupon,

Resolved by the Legislature of the Commonwealth of Kentucky, That they do most solemnly protest against the doctrines promulgated in that decision, as ruinous in their practical effects, to the good people of this Commonwealth, and subversive of their dearest and most invaluable political rights.

Resolved by the authority aforesaid, That in the opinion of this Legislature, the decisions of the Court of Appeals of Kentucky, in the cases of Blair against Williams and Lapsley against Brashear, are erroneous; and the laws therein declared to be unconstitutional, are, in the opinion of the present General Assembly, constitutional and valid acts.

Resolved by the authority aforesaid, That any effort which the Legislature may feel it a duty to make, for the contravention of the erroneous doctrines of that decision, ought not to interfere with, or obstruct the administration of justice, according to the existing laws, which, whether they were or were not expedient, are believed to be constitutional and valid; and which should, when it shall be thought expedient to do so, be repealed by the Legislature, and not by the Appellate Court.

And having performed this painful duty, the Legislature would, with much pleasure, have withdrawn from the contemplation of a subject so intrinsically disagreeable, if the existing state of things had permitted. The people of Kentucky, though embarrassed, were not hopelessly depressed. Trusting in the goodness of Heaven and their own strenuous exertions, encouraged by the rewards which a prolific soil, under the influences of a genial climate, accorded to the labors of husbandry, they had so mitigated the rigors of their remedial system, by legislative enactments, as to inspire hope and invigorate industry. They were uniting habits of increased economy, with those of industry; they still enjoyed, in the right of self-government, the blessings of liberty; and they were cheered by the conviction, that their difficulties must, at no distant period, yield to their increased economy and their indus-

try. The light of prosperity was again beginning to display its faint dawns upon them, when the Appellate Court of the Nation and State, (by simultaneous impulse,) as if in the view to exemplify the illusive nature of hope, and the fallacy of the fairest prospects, uttered their respective edicts. The former proclaimed, that the State of Kentucky possessed no legislative dominion over its soil; the latter, that the Legislature of the State possessed no power to alter, amend or modify its remedial laws. The former having disfranchised the State and reduced it to the degrading posture of a province of Virginia, the latter denied to it even provincial legislative powers. The error of the latter has been exposed. For an exposition of an error of the former, reference is made to a petition, under the signatures of John Rowan and Henry Clay, presented to that Court for a re-hearing, in the case of Green and Biddle, (the case in which the odious doctrine was proclaimed,) and to a series of numbers published in "The Commentator," under the signature of H. Marshall, in which the reasoning employed in the petition is ably illustrated, amplified and enforced. Those documents are connected herewith, and their reasoning adopted.

The declaration by the people of Kentucky, that they *will be free*, would be superfluous. They cannot, until their habits and nature are changed, be otherwise; and they have no preference for *judicial tyranny*. They will not tolerate tyranny under any disguise; but, while they abhor oppression, under whatever mask, they love order, and will not violate it, until no other alternative is left: Wherefore,

Resolved by the Legislature of the Commonwealth of Kentucky, That they do hereby most solemnly protest, in the name and on the behalf of the good people of Kentucky, against the erroneous, injurious and degrading doctrines of the opinion of the Supreme Court of the United States, pronounced at the last session of that Court, in the case of Green and Biddle.

And it is further resolved, That this Legislature ought, as the first measure to avoid the oppression and degradation inflicted by the opinion upon the State of Kentucky, to present to the Congress of the United States, a temperate, but firm remonstrance against its doctrines, and therein to call upon the nation to guarantee to the State its co-equal sovereignty with the States which compose this Union; and also, to request Congress therein, so to organize the Supreme Court of the United States, that no constitutional question, growing out of the Constitution of the United States, or the Constitution of either of the States, involving the validity of State laws, shall be decided by said Court, unless two-thirds of all the members belonging to said Court shall concur in such decision; and that a committee of two members from the Senate, and four from the House of Representatives, be appointed to prepare and report such remonstrance.

The question was taken upon concurring in the first resolution, and it was resolved in the affirmative—Yeas 22, nays 14.

The yeas and nays being required thereon by Messrs. Hickman and Faulkner, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Dawson, Denny, Duncan, Ewing, Forsythe, Gorin, Lyon, M'Afee, Mayo, Miller, Morehead, Owens, Rudd, Smith, T. Ward, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Roper, Towles, J. Ward, White and Williams.

The question was then taken upon concurring in the second resolution, and it was resolved in the affirmative—Yeas 23, nays 15.

The yeas and nays being required thereon by Messrs. Faulkner and Gorin, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Denny, Duncan, Ewing, Forsythe, Gorin, Lyon, M'Afee, Mayo, Miller, Morehead, Owens, Rudd, Smith, T. Ward, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Roper, Towles, J. Ward, White and Williams.

The question was then taken upon concurring in the third resolution, and it was resolved in the affirmative—Yeas 23, nays 15.

The yeas and nays being required thereon by Messrs. Faulkner and Gorin, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Denny, Duncan, Ewing, Forsythe, Gorin, Lyon, M'Afee, Mayo, Miller, Morehead, Owens, Rudd, Smith, T. Ward, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Roper, Towles, J. Ward, White and Williams.

Mr. Carneal moved to amend the fourth resolution, by striking out the following words, to wit: "And therein to call upon the nation to guarantee to the State its republican form of government;" and the question being taken thereon, it was resolved in the affirmative.

Mr. Blackburn then moved further to amend the said resolution, by striking out the following words, to wit: "And its co-equal sovereignty with the States which compose this Union; and also, to request Congress therein, so to organize the Supreme Court of the United States, that no constitutional question, grow-

ing out of the constitution of the United States, or the constitution of either of the States, involving the validity of the State laws, shall be decided by said Court, unless two-thirds of all the members belonging to said Court, shall concur in such decision;" and to insert, in lieu thereof, the following words, to wit:

"And it is further resolved, That Congress be requested so to organize the Supreme Court of the United States, that no constitutional question, growing out of the constitution of the United States, or either of the States, involving the validity of the State Laws, shall be decided by said Court, unless three-fourths of all the members belonging to said Court shall concur in such decision."

And the question being taken thereon, it was resolved in the negative—Yeas 15, nays 23.

The yeas and nays being required thereon by Messrs. Blackburn and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Roper, Towles, J. Ward, White and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barret, Beauchamp, Carneal, Dawson, Denny, Duncan, Ewing, Forsythe, Gorin, Lyon, M'Afee, Mayo, Miller, Morehead, Owens, Rudd, Smith, T. Ward, Wickliff and Worthington.

Mr. Roper then moved to amend the resolutions, by striking out the fourth resolution and the preamble thereto, and inserting in lieu thereof the following preamble and resolutions, to wit:

In General Assembly of the Commonwealth of Kentucky, both branches thereof concurring.

This General Assembly, considering its powers, privilèges and duties similar and co-extensive with those of former Legislatures, who, composed of the senators and representatives of the people, are charged with the care and superintendence of their interests: Considering that its predecessors of the year 1821, deeming the first decision of the Supreme Court of the United States, in the case of Green and Biddle, an event deeply implicating the constitutional powers and privileges of the Legislature of this State, by declaring its acts, known as the Occupying Claimant Laws, a violation of the Constitution, and therefore null and void, deputed two of our ablest counsellors and most respectable citizens, to represent the feelings, and support the rights of themselves and their constituents, by remonstrance and otherwise, and, if practicable, to procure a change of the injurious determination of the Court: Considering, that although the effort was made with ability, it notwithstanding failed: Considering that the final opinion of the Court, not less exceptionable, is even more irreconcilable

and alarming than the first, since the Court, having retreated from the Constitution of Kentucky, have fortified themselves with that of the United States; whence all hope of self-relief is placed beyond our reach, were we even disposed to change our own Constitution: Considering, that by this succession of untoward occurrences, Kentucky has been thrown into a situation of serious embarrassment; and that, now reduced to the alternative of submission or resistance, she will only consider the options which the latter presents to her choice, in its various modes of redress: And considering, that the mildest course which combines with the probability of success, is the most eligible; and that, as there has not yet been any direct address from this body to the Court, this Legislature is determined to foresee no difficulty in obtaining from a full Court, a re-consideration and reversal or overruling of their determination: Therefore,

Resolved, That the General Assembly of Kentucky will adopt an address, in its own constitutional character, to the Supreme Court of the United States, in full session, which shall contain a remonstrance against the construction made of the Compact between Virginia and Kentucky, and especially of its third article; setting forth the point of misconception, as it is believed, by the Court; the construction which this Legislature makes of the same article; the injurious consequences resulting from the present determination, and a petition for its total and definitive reversal, (or overruling,) upon an explicit abandonment of the grounds heretofore taken by the Court.

Thus giving to our sister States, and the world, an example of the predilection and tenacity with which this Legislature adheres to the benign principles of the Federal Constitution, which so happily reconciles the patriotism, pride and dignity of free States, with even reiterated applications to the national supreme tribunal of justice, for redress of a grievance: Wherefore,

Resolved, That a joint committee be appointed on the part of the Senate and of the House of Representatives, to prepare and report a remonstrance and petition, agreeably to the foregoing resolution.

And the question being taken thereon, it was resolved in the negative—Yeas 16, nays 22.

The yeas and nays being required thereon by Messrs. Roper and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Blackburn, Bowman, Carneal, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Roper, Towles, J. Ward, White and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Dawson, Denny, Duncan, Ewing, Forsythe, Gorin, Lyon, M'Affee, Mayo, Miller, Morehead, Owens, Rudd, Smith, T. Ward, Wickliff and Worthington.

It was then moved and seconded to re-consider the vote where by the amendment offered by Mr. Carneal to the third resolution was adopted: and the question being taken thereon, it was resolved in the negative—Yeas 17, nays 21.

The yeas and nays being required thereon by Messrs. Carneal and Owens, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Dawson, Denny, Duncan, Ewing, Forsythe, Gorin, Miller, Morehead, Owens, Rudd, Smith and T. Ward.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Bowman, Carneal, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Lyon, M'Afee, Marshall, Mayo, Roper, Towles, J. Ward, White, Wickliff, Williams and Worthington.

The question was then taken upon the adoption of the fourth resolution, and it was resolved in the affirmative—Yeas 25, nays 13.

The yeas and nays being required thereon by Messrs. Beauchamp and Gorin, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen; Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Denny, Duncan, Ewing, Forsythe, Gorin, Lyon, M'Afee, Marshall, Mayo, Miller, Morehead, Owens, Rudd, Smith, J. Ward, T. Ward, Williams and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Roper, Towles, White and Wickliff.

The question was then taken upon the adoption of the preamble to the resolutions, and it was resolved in the affirmative—Yeas 22, nays 16.

The yeas and nays being required thereon by Messrs. Beauchamp and Gorin, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Denny, Duncan, Ewing, Forsythe, Gorin, Lyon, M'Afee, Mayo, Miller, Morehead, Owens, Rudd, Smith, T. Ward and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Roper, Towles, J. Ward, White, Wickliff and Williams.

Ordered, That Mr. M'Afee inform the House of Representatives thereof.

Mr. Bowman, from the select committee to whom was referred "a bill to appropriate the vacant lands lying east of the Tennessee river, between the Tennessee line and 36 degrees 30 minutes north," reported the same with an amendment, which was concurred in, and the bill was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act to appropriate the vacant lands lying east of the Tennessee river, between the Tennessee line and 36 degrees 30 minutes north."

Ordered, That Mr. Ewing inform the House of Representatives thereof, and request their concurrence.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice have, according to order, had under consideration "a bill for the benefit of Nancy Strode," and have come to the following resolution thereupon, to wit:

Resolved, That said bill *ought to pass*:

Which was concurred in; and the bill, having been engrossed, was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of Nancy Strode."

Ordered, That Mr. Roper inform the House of Representatives thereof.

Mr. Flournoy presented the petition of the officers of the 42d regiment of militia, praying amendments to the militia law; which was read and referred to Messrs. M'Afee, Davidson, Faulkner, T. Ward and Dawson.

The following bills were reported, to wit:

By Mr. M'Afee—A bill to amend the act incorporating the Centre College of Kentucky at Danville.

And by Mr. Lyon—A bill to provide for opening public roads west of Tennessee river.

Which were severally read the first time; and the rule being dispensed with, they were read a second time, and ordered to be engrossed and read a third time.

The Senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act for the benefit of Benjamin Wright, and an act for the benefit of the widow and children of Edward M'Guire, deceased.

The latter bill was read the first time; and the rule being dispensed with, it was read a second and third times.

Resolved, That the said bill do pass, and that Mr. C. H. Allen inform the House of Representatives thereof.

The Senate received, by the Secretary of State, a written message from the Governor, containing military nominations.

An engrossed bill making provision for finishing the Louisville Hospital, was read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 18, nays 13.

The yeas and nays being required thereon by Messrs. Gorin and Owens, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Barrett, Beauchamp, Blackburn, Denny, Ewing, Forsythe, Howard,

Lyon, M'Afee, Mayo, Miller, Roper, Rudd, Towles, T. Ward, White and Wickliff.

Those who voted in the negative, are, Messrs. Ballinger, Barbee, Bowman, Cowan, Davidson, Dawson, Duncan, Faulkner, Gorin, Hickman, Morehead, Owens and Worthington.

Resolved, That the said bill do pass, and that the title be, "an act making provision for finishing and furnishing the Louisville Hospital."

Ordered, That Mr. Denny inform the House of Representatives thereof, and request their concurrence.

Ordered, That the committee of propositions and grievances be discharged from the further consideration of the petitions of Elijah Green and John Shields, and that they be committed to the committee for courts of justice.

Mr. Howard, from the select committee to whom was referred "a bill for the benefit of securities," reported the same with amendments.

And then the Senate adjourned.

MONDAY, DECEMBER 22, 1823.

The Senate assembled.

The Lieutenant-Governor being absent, Mr. Blackburn was chosen Speaker for the occasion.

Mr. Howard presented the petition of Trevor, Paul & Co. praying an appropriation for the payment of a debt due to them from the Penitentiary institution; which was read and referred to the committee for courts of justice.

The vote whereby a bill from the House of Representatives, entitled "an act to compensate John Sterrett for surveying the road from Bowlinggreen to the mouth of Clover creek on the Ohio river," was rejected, was re-considered; and the bill, being amended at the Clerk's table, was read a third time.

Resolved, That the said bill, as amended, do pass, and that Mr. Wickliff inform the House of Representatives thereof.

The following bills were reported, to wit:

By Mr. Mayo—A bill to add a part of the county of Floyd to the county of Morgan, and for other purposes.

By Mr. White—A bill to regulate the town of Christiansburg, and for other purposes.

And by Mr. T. Ward—A bill for the benefit of certain sheriffs.

Which were severally read the first time, and ordered to be read a second time; and the rule being dispensed with, the two former bills were read a second and third times, (having been engrossed.)

Resolved, That the two former bills do pass, and that the titles be, respectively, "an act to add a part of the county of Floyd to

the county of Morgan, and for other purposes," and "an act further to regulate the town of Christiansburg, and for other purposes."

Ordered, That Mr. White inform the House of Representatives thereof, and request their concurrence.

The Senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act to fix the ratio and apportion the representation for the ensuing four years; an act for the benefit of the heirs of Byrd Lineas, and an act to establish election precincts in the counties of Floyd, Henry and Mason; and that they had concurred in a resolution from the Senate, for the benefit of Joseph and Thomas Rotch, and a resolution as to the qualification of Presidents and Directors of the Banks.

Mr. M'Affee, from the joint committee appointed to examine the Bank of the Commonwealth, made the following report, to wit:

The joint committee who were appointed to examine and report the situation of the Commonwealth's Bank, would respectfully submit the following report:

That the affairs of this institution seem, at this time, to be, in the general, conducted with prudence and caution. Some losses will be sustained, but not as many as your committee had at first apprehended, when they commenced their investigation, nor more than is usual in institutions conducted upon so extensive a scale. The principal difficulty which the bank and its various branches had to encounter, when they went into operation, was the great distresses of the community pressing upon them for relief; and some of the Directors, particularly in two or three of the counties in which the principal bank and branches were not located, have been prevailed on to discount notes not as well secured as they ought to have been; because, of necessity, the representations of the foreign Directors were received as satisfactory evidence of the goodness of the notes presented for discount; and your committee believe, that the greater part of the losses which will be sustained, originated at that time and from these causes. But we are pleased to find, that the Presidents and Directories of the principal bank and branches are taking the most prudent measures to secure all the doubtful debts, and indeed a large portion of those which at various times have been considered as desperate. These reflections are made upon a view of the delinquent lists and explanatory letters of the different Presidents, which have been submitted to the inspection of the committee; and it is but justice to those who have been reported delinquents, to say, that it is but little evidence of their solvency or insolvency, as much the greater portion of them are as fully secured as any notes in bank; but owing, generally, to sickness in themselves or their Directors, who live in the counties where the bank and

branches are not located, and merely omitting to renew their notes. The Directory are taking the most prudent steps to cure this evil, by arranging all the distant notes, in the several counties, so that they will fall due on the same day; and they believe, that so long as the Legislature continue to elect prudent and discreet Presidents and Directors to manage the institution, its operations will not be attended with greater losses or difficulties than are usual to be met with in other banks. Your committee, therefore, recommend to the Legislature, at all times to be vigilant and circumspect in the selection of the various managers of the bank, and little danger is to be apprehended as to future losses; and while it continues to be a source of revenue to the State, many wise and humane institutions may be erected and supported, which, at no distant period, will do honor to Kentucky and her councils.

In addition to the information already before the Legislature, we submit a condensed statement of the principal bank and all the branches, marked A. Also, a statement of the supposed bad debts, amounting (exclusive of the Mountsterling and Hartford branches, from which no reports on this point have been received,) to \$7,504 50, a portion of which, we believe, will yet be secured by the vigilance of the bank officers.

We also submit a letter received from the Cashier of the principal bank, containing a statement of an accidental loss to himself, of the sum of one hundred and forty dollars; in relation to which, we recommend the adoption of the following resolution:

Resolved, That in case the Cashier produces satisfactory evidence before the President and Directors of the principal bank, that he sustained the loss specified in his letter, they, the said President and Directors, shall make the allowance to him of the sum aforesaid.

In relation to that branch of duty assigned to this committee, requiring of them to enquire into the expediency of diminishing the annual expences of the institution, by reducing the number of Clerks therein, your committee would respectfully recommend, as the result of their inquiries upon that subject, the adoption of the following resolution, viz.

Resolved, That it is inexpedient, at this time, to reduce the number of Clerks in the institution.

From the Senate, ROBERT B. MAFEE,
GRANVILLE BOWMAN,
WILLIAM OWENS.

From the House of Rep's. A. S. FARROW,
R. H. GIST,
THOMAS FLETCHER,
HIRAM S. EMERSON,
DANIEL MORGAN,
RICHARD FRENCH.

(A.)

Statement complete, of the situation of the Bank of the Commonwealth of Kentucky and Branches, on the 1st October 1823.

	Stock.	Literary Fund.	Notes payable.	Discounts	Individual depositors.	Due to other Banks.	Notes discounted.
Aggregate of the 10 Branches and principal Bank, reported 8th November 1823, Princeton Branch, Louisville Branch.	120,024 63	103,351 61	2,035,852 50	26,291 81	184,096 79	95,954 05	1,952,469 90
		9,410 63	214,546 44	2,339 68	20,088 79	9,243 24	203,900
		15,930 29	291,521 50	3,245 08	53,730 84	1,080 69	285,275
DOLLARS.	120,024 63	123,692 53	2,541,920 44	31,876 57	257,916 43	106,277 98	2,441,644 90

	Notes in suit.	Real Estate.	Due from other Banks.	General expenses.	Specie.	Eastern Notes.	B'k. Com- & branches.	U. S. notes.	B. Ky. & branches.
Aggregate of the 10 branches and principal Bank, reported 8th November, 1823. Princeton Branch, Louisville Branch	103,677 70	3,231 41	72,363 94	2,939 96	4,135 62	855.	417,247 11	50	8,600 75
			17,425 95	75 68	352 15		33,798		77
			13,389 30	186 87			66,657 23		
DOLLARS.	103,677 70	3,231 41	103,179 19	3,202 51	4,487 77	855	517,702 34	50	8,677 75

D

RECAPITULATION.

Stock	-	-	-	-	-	120,024	63
Literary Fund,	-	-	-	-	-	128,692	53
Notes Payable,	-	-	-	-	-	2,541,920	44
Discounts,	-	-	-	-	-	31,876	57
Individual Depositors,	-	-	-	-	-	257,916	42
Due to other Banks,	-	-	-	-	-	106,277	98

\$ 3,186,708 57

Cash, viz. Specie,	-	-	-	4,487	77		
Eastern Notes,	-	-	-	855			
Notes Bank of the Commonwealth,				417,702			
United States Notes,	-	-	-	50			
Bank of Kentucky and Branches,				8,677	75	531,772	86
Notes discounted,	-	-	-	-	-	2,441,644	90
Do. in suit,	-	-	-	-	-	103,677	70
Real estate,	-	-	-	-	-	3,231	41
Due from other Banks,	-	-	-	-	-	103,179	19
Expences,	-	-	-	-	-	3,202	51

\$ 3,186,708 57

Amount of notes payable 1st October 1823,	2,541,920	44
Amount of notes and cash on hand, after satisfying all individual demands against the Bank,	273,856	44

In actual circulation on the 1st October 1823, including amount due to individual depositors,

2,268,064 00

O. G. WAGGENER, *Cashier*.

Ordered, That Mr. Denny be excused from serving on the joint committee appointed to examine the Transylvania University and Lunatic Hospital, and that Mr. James Ward be added thereto.

The following bills were reported, to wit:

By Mr. Roper—A bill for the benefit of the devisees of John Thruston, deceased.

By Mr. Lyon—A bill to change the time of holding the circuit and county courts of Calloway county.

And by Mr. Hickman—A bill for the relief of Thomas Hughes, sheriff of Bourbon county.

Which were severally read the first time; and the rule being dispensed with, they were read a second time, and the second a third time, (having been engrossed.)

Resolved, That the said bill do pass, and that the title be, "an act to change the time of holding the circuit and county courts of Calloway county."

Ordered, That Mr. Lyon inform the House of Representatives thereof, and request their concurrence,

The first bill was committed to the committee for courts of justice.

Mr. Beauchamp, from the select committee to whom was referred "a bill to amend the law concerning champerty and maintenance," reported the same with an amendment, which was concurred in, and the bill laid on the table.

Ordered, That the public printers forthwith print 150 copies of said bill, for the use of the members of the Legislature.

A bill to enforce the obligation of contracts, was taken up, and the substitute offered for the amendment recommended by the committee, was read and rejected. The amendment of the committee was then agreed to, and the subject rested on a motion made by Mr. Marshall, to re-consider the vote rejecting the substitute.

A bill from the House of Representatives, entitled "an act more effectually to suppress gaming," was read a third time, and amended at the Clerk's table.

Resolved, That the said bill, as amended, do pass, and that Mr. Denny inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing that they were ready to proceed in the election of a Treasurer, Public Printers, a President and Directors of the Bank of Kentucky on the part of the State, and a President and Directors of the Bank of the Commonwealth of Kentucky.

After receiving nominations and exchanging messages with the House of Representatives, a committee was appointed on the part of the Senate, to meet a committee from the House of Representatives, compare the votes and report the result; and after some time, said committee reported, and the following persons were declared duly elected to the several offices, to wit:

Samuel South, Treasurer; Jacob H. Holeman, Public Printer for the first division, and Amos Kendall, Robert Johnston and Albert G. Meriwether for the second division.

John Harvie, President of the Bank of Kentucky; and Daniel Weisiger, Henry Crittenden, Achilles Sneed, Herman Bowmar, Charles S. Bibb and James W. Hawkins, Directors.

John J. Crittenden, President of the Bank of the Commonwealth of Kentucky; and Willis Field, George B. Knight, William O. Butler, Jephthah Dudley, Lyddall Wilkinson, Francis P. Blair, Jacob Swigert, Gervas E. Russell, Benjamin Hensley, Samuel B. Crockett, Joseph G. Roberts and Price Nuttall, Directors.

The Senate received, by the Secretary of State, a written message from the Governor, containing nominations; and the rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

The recommendations having been made in conformity to the provisions of the constitution, I nominate for your advice and con-

sent, Elijah Cravens, sheriff; William Edwards, coroner; Ezekiel Edens, Ebenezer Killough, Richard Keiger, Joshua Shelton, Frederick Farmer, William Armstrong, Crawford Anderson, William Holifield, Benjamin Stokes and Isaac Darnielle, justices of the peace in and for the county of Graves.

JOHN ADAIR.

December 22, 1823.

Resolved, That the Senate advise and consent to said appointments, and that Messrs. Lyon and Mayo inform the Governor thereof.

And then the Senate adjourned.

TUESDAY, DECEMBER 23, 1823.

The Senate assembled.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice have, according to order, had under consideration the petition of Edmund Bartlett, praying that a law may be passed authorising the register of the land-office to make him a deed for a tract of land sold many years ago, the certificate of which sale is lost, and have come to the following resolution thereupon, to wit:

Resolved, That the said petition *be rejected*.

They have also had under consideration a bill for the benefit of the devisees of John Thruston, deceased, and have come to the following resolution thereupon, to wit:

Resolved, That the said bill *ought to pass*.

Which was twice read, and the former resolution, after being amended, by striking out the words "be rejected," and inserting in lieu thereof the words "is reasonable," was concurred in.

The bill was then engrossed and read a third time.

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of the devisees of John Thruston, deceased."

Ordered, That Mr. Denny inform the House of Representatives thereof, and request their concurrence.

The Senate received, by the Secretary of State, a written message from the Governor; and the rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

Mr. Samuel South, Treasurer elect of this Commonwealth, has named the following gentlemen for his securities in the official bond required by law, viz. Thomas Todd, John Harvie, George M. Bibb, Achilles Sneed, Francis P. Blair, Jephthah Dudley and

Daniel Weisiger, sen. The nomination is submitted to the Senate for their approbation.

JOHN ADAIR.

December 23, 1823.

Resolved, That the Senate advise and consent to said securities; and that Mr. Barbee inform the Governor thereof.

The following bills were reported, to wit:

By Mr. Roper, from the committee for courts of justice—A bill for the benefit of Thomas P. Satterwhite. Also, a bill for the benefit of Trevor, Paul & Co.

Which were read the first time; and the rule being dispensed with, the said bills were read a second time.

The latter bill was committed to Messrs. Roper, Beauchamp and Carneal; and after some time, Mr. Roper reported the same with an amendment, which was concurred in; and both bills, having been engrossed, were read a third time.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act for the benefit of Thomas P. Satterwhite," and "an act for the benefit of Trevor, Paul & Co."

Ordered, That Mr. Roper inform the House of Representatives thereof, and request their concurrence.

Ordered, That the committee prepare and bring in a bill pursuant to the former resolution.

The Senate, having received a message from the House of Representatives, announcing that they were ready to proceed to the election of a President and Directors of the several branches of the Bank of the Commonwealth of Kentucky, and having exchanged nominations, proceeded to the election.

A committee was appointed on the part of the Senate, to meet a committee from the House of Representatives, for the purpose of comparing the votes, and to report the result. The committee retired, and after some time returned and reported, and the following persons were declared duly elected, to wit:

Flemingsburg Branch—William P. Fleming, President; George W. Botts, William Hodge, James Alexander, John D. Stockton, Aaron Owens, Charles Ward, James Morris and Larkin Anderson, Directors.

Falmouth Branch—Press G. Kennett, President; James Wilson, James King, James Nailor, Thomas G. Hall, Isaac Miller, Andrew S. Hughes, Thomas Buckner and Willis Graves, Directors.

Lexington Branch—Charles Humphreys, President; Elisha Warfield, Matthew Kennedy, John Bradford, Thomas Wallace, William R. Morton, David Thomson, Elijah Craig and Samuel M-Hatton, Directors.

Louisville Branch—Levi Tyler, President; Benjamin I. Harrison, Craven P. Luckett, John Pope, jun. David C. Pinkham, Wil-

liam Sale, Burr Harrison, Samuel M'Kay, John W. Beckwith and Cadwallader Churchill, Directors.

Hartford Branch—Charles M'Creary, President; Charles Henderson, Richard L. Walker, John Calhoun, Benjamin Smith, John Rogers, John Murray, John Field, James Hillyer, Joshua H. Davis and Willis Morgan, Directors.

Princeton Branch—John H. Phelps, President; Joseph R. Given, Jeremiah Rucker, Mercer Wadlington, John S. Anderson, Nathan S. Dallam, John M'Caughan, James Hodge and Thomas G. Davis, Directors.

Greensburg Branch—James Allen, President; Joseph Akin, Henry Embree, Elijah Creel, James Lasley, Ignatius Hazel, George T. Wood, Hezekiah P. Murrell, Radford Maxey, Nathan Gaither and Milton King, Directors.

Harrodsburg Branch—Beriah M'Goffin, President; Joel P. Williams, William Robertson, Christopher Chinn, David Sutton, Thomas Head, Jesse Coffey, David L. M'Kee and George I. Brown, Directors.

Winchester Branch—James Anderson, President; James Simpson, Micah Taul, Lewis Grigsby, John Miles, John Donaldson, David Bruton, Alexander S. Morrow and Benjamin Straghan, Directors.

Mountsterling Branch—George Howard, President; David K. Harris, James M'Ilhenny, James Ward, jun. Thomas D. Owings, S. D. Everitt, M. Harrison, Robert Stockton and Paul Durrett, Directors.

Somerset Branch—William Fox, President; John Griffin, Henry James, Joseph Porter, Charles Hayes, John Chrisman, Benjamin Eve, Uriah Grisham and Adam Wilson, Directors.

Bowlinggreen Branch—John Loving, President; Robert F. Slaughter, James T. Morehead, William Bell, George W. Call, Thomas M. Smith, Richard B. Dallam, John Wills and Alexander Graham, Directors.

A bill for the benefit of Thomas Hughes, sheriff of Bourbon county, was read a second time; and the rule being dispensed with, it was read a third time, (having been engrossed.)

Resolved, That the said bill do pass, and that the title be, "an act for the relief of Thomas Hughes, sheriff of Bourbon county."

Ordered, That Mr. Hickman inform the House of Representatives thereof.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined an enrolled resolution fixing a day for the election of bank officers, and a resolution for the benefit of Joseph and Thomas Rotch, and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said resolutions.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee reported that they had performed that duty.

The Senate received a message from the House of Representatives, announcing the passage of a bill entitled "an act for the benefit of the heirs of George Scott, deceased," and that they had passed a bill from the Senate entitled "an act for the relief of Thomas Hughes, sheriff of Bourbon county."

A bill from the House of Representatives, entitled "an act to fix the ratio and apportion the representation for the ensuing four years," was read the first time and ordered to be read a second time.

It was then moved and seconded to dispense with the second reading of said bill, which was resolved in the affirmative—Yeas 24, nays 6.

The yeas and nays being required thereon by Messrs. Beauchamp and T. Ward, were as follows, to wit:

Those who voted in the affirmative, are, Mr. Speaker, Messrs. C. H. Allen, Barrett, Bowman, Cowan, Davidson, Dawson, Denny, Duncan, Faulkner, Flournoy, Forsythe, Hickman, Howard, Lyon, Morehead, Rudd, Smith, Towles, T. Ward, White, Wickliff, Williams and Worthington.

Those who voted in the negative, are, Messrs. Ballinger, Barbee, Beauchamp, M'Afee, Mayo and Owens.

Mr. Wickliff moved to amend the bill, by giving "one member to the county of Oldham;" and the question being taken thereon, it was resolved in the negative—Yeas 14, nays 17.

The yeas and nays being required thereon by Messrs. Wickliff and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Mr. Speaker, Messrs. Ballinger, Barbee, Barrett, Beauchamp, Davidson, Faulkner, Lyon, Mayo, Miller, Owens, T. Ward, White and Wickliff.

Those who voted in the negative, are, Messrs. C. H. Allen, Carneal, Cowan, Dawson, Denny, Duncan, Flournoy, Forsythe, Hickman, Howard, Marshall, Morehead, Rudd, Smith, Towles, Williams and Worthington.

The bill was then ordered to be read a third time.

On the motion of Mr. Faulkner, leave was given to bring in a bill to amend the law concerning the Penitentiary; and Messrs. Faulkner, Beauchamp, Howard, Marshall, Carneal and Denny were appointed a committee to prepare and bring it in.

On the motion of Mr. Lyon, leave was given him to report a bill for the relief of the actual settlers upon the public lands west of Tennessee river; which was read the first time.

And the question being taken on reading said bill a second time, it was resolved in the affirmative—Yeas 17, nays 13.

The yeas and nays being required thereon by Messrs. Lyon and Dawson, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barbee, Barrett, Beauchamp, Bowman, Carneal, Cowan, Davidson, Duncan, Forsythe, Hickman, Lyon, M'Afee, Miller, Towles, T. Ward and Worthington.

Those who voted in the negative, are, Messrs. C. H. Allen, Dawson, Faulkner, Flourney, Howard, Morehead, Owens, Roper, Rudd, Smith, White, Wickliff and Williams.

The Senate received, by the Secretary of State, a written message from the Governor, containing certain nominations.

And then the Senate adjourned.

WEDNESDAY, DECEMBER 24, 1823.

The Senate assembled.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined enrolled bills of the following titles, to wit: An act for the benefit of certain sheriffs; an act for the benefit of the widow and children of Edward M'Guire, deceased, and an act for the relief of Thomas Hughes, sheriff of Bourbon county; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed the latter bill.

Whereupon the Speaker of the Senate signed the said bill, and it was delivered to the joint committee of enrolments, to be laid before the Governor; and after some time Mr. Barbee reported that they had performed that duty.

The nominations made on yesterday were taken up and read as follows, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent, John Sample and John C. Dodds, assistant judges in and for the county of Graves.

Also, Thomas James and Peter Mahan, assistant judges in and for the county of Hickman, in the place of Richard Taylor, jun. and John Anderson, resigned.

Joseph Towler, notary public in and for the county of Fayette.

Nathan S. Dallam, notary public in and for the county of Christian.

JOHN ADAIR.

December 23, 1823.

Resolved, That the Senate advise and consent to said appointments, and that Mr. Lyon inform the Governor thereof.

Mr. Beauchamp read and laid on the table a resolution for printing a certain number of copies of the preamble and resolutions of the Legislature in relation to the decision of the Court of

Appeals on the replevin and endorsement laws, and the decision of the Supreme Court of the United States on the occupying claimant laws.

The Senate received a message from the House of Representatives, announcing the passage of a bill from the Senate, entitled "an act for the benefit of certain sheriffs," and that they had received official information that the Governor did on the 18th inst. approve and sign enrolled bills, which originated in the House of Representatives, of the following titles, to wit: An act to revive the law providing for the appointment of Commonwealth's Attorneys; an act for the benefit of George Payne of Union county, and George Payne of Henry county; an act providing for a change of venue in the case of Elijah Walton; an act to amend an act to establish a seminary of learning in the county of Hart; an act for the benefit of Thomas Mullens; an act to compensate Henry Clay and John Rowan for their services as counsel for the State of Kentucky under the convention with Virginia, and an enrolled resolution in relation to the Penitentiary; and that he did, on the 19th inst. approve and sign enrolled bills, which originated in that house, of the following titles, to wit: An act establishing election precincts in the counties of Fayette, Harrison and Lawrence, and for other purposes; an act for legalizing the proceedings of the county court of Warren, in laying the levy at November term 1823; an act to amend an act entitled "an act to incorporate the turnpike road company from Louisville to Portland and Shippingport;" an act for the benefit of James Kirkham's heirs; an act for the benefit of Jane Proctor and her children; an act appointing trustees for the town of Fairfield, in Nelson county; an act for the benefit of Chasteen T. Dunevan, sheriff of Warren county; an act to amend an act entitled "an act to incorporate the Cythiana Library Company," and enrolled resolutions requesting the attention of the general government to the subject of slaves belonging to citizens of the United States, who have or may escape to Canada. Also, that they had passed bills of the following titles, to wit: 1. An act to amend the law in relation to the turnpike and wilderness road; 2. an act for the benefit of the widow and heirs of James Dunbar, deceased; 3. an act to prolong and continue in force an act for the benefit of Joseph Barnett and his associates, and 4. an act to repeal all laws which give the right of replevy to officers and attorneys at law, who officially collect money and refuse to pay over the same, and for other purposes.

Which bills were severally read the first time, and ordered to be read a second time; and the rule being dispensed with, the first, third and fourth bills were read a second time, and the first and third a third time.

Resolved, That the said bills do pass, and that Mr. Howard inform the House of Representatives thereof.

The fourth bill was committed to Messrs. Wickliff, Faulkner, Owens and Beauchamp.

A bill from the House of Representatives, entitled "an act to fix the ratio and apportion the representation for the ensuing four years," was taken up.

It was moved and seconded to reconsider the vote rejecting an amendment proposing to strike out three members from the county of Madison; and it was resolved in the negative—Yeas 14, nays 19.

The yeas and nays being required thereon by Messrs. Beauchamp and Hickman, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Davidson, Duncan, Lyon, M'Afee, Mayo, Miller, Owens, T. Ward and Wickliff.

Those who voted in the negative, are, Mr. Speaker, Messrs. Bowman, Carneal, Cowan, Dawson, Denny, Faulkner, Flournoy, Forsythe, Hickman, Howard, Marshall, Morehead, Rudd, Smith, Towles, White, Williams and Worthington.

Mr. Lyon moved to amend the bill, by attaching thereto the following section, to wit:

"The polls in the seventh senatorial district shall be compared at the court-house in Livingston county; and Graves county shall be added to the representative district west of Tennessee river, and the polls for representative shall be compared at Graves court-house."

And the question being taken thereon, it was resolved in the negative—Yeas 15, nays 18.

The yeas and nays being required thereon by Messrs. Lyon and Wickliff, were as follows, to wit:

Those who voted in the affirmative, are, Mr. Speaker, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Bowman, Faulkner, Lyon, M'Afee, Mayo, Miller, Owens, T. Ward and Wickliff.

Those who voted in the negative, are, Messrs. Carneal, Cowan, Davidson, Dawson, Denny, Duncan, Flournoy, Forsythe, Hickman, Howard, Marshall, Morehead, Rudd, Smith, Towles, White, Williams and Worthington.

The bill was then read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 24, nays 9.

The yeas and nays being required thereon by Messrs. Beauchamp and Wickliff, were as follows, to wit:

Those who voted in the affirmative, are, Mr. Speaker, Messrs. Barbee, Carneal, Cowan, Davidson, Dawson, Denny, Duncan, Faulkner, Flournoy, Forsythe, Hickman, Howard, Lyon, Mar-

shall, Miller, Morehead, Rudd, Smith, Towles, T. Ward, White, Williams and Worthington.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barrett, Beauchamp, Bowman, M'Affee, Mayo, Owens and Wickliff.

Resolved, That the said bill do pass, and that Mr. T. Ward inform the House of Representatives thereof.

A bill from the House of Representatives, entitled "an act for the benefit of Frederick Snider," was read a third time.

Resolved, That the said bill do pass, and that Mr. T. Ward inform the House of Representatives thereof.

Bills from the House of Representatives, of the following titles, to wit: 1. An act authorising a sale of part of the real estate of Anthony Griffin, deceased; 2. an act incorporating the Harrodsburg Library Company; 3. an act for the benefit of the late sheriffs of Ohio, Breckinridge and Daveiss counties; 4. an act for the relief of the acting executor of William Hardin, deceased; 5. an act providing for a change of venue in the case of William Cornwell; 6. an act to abolish an election precinct in Cumberland county; 7. an act for the benefit of the heirs of John South; 8. an act for the benefit of the heirs of Absalom Adams; 9. an act for the benefit of John Cotrell and others; 10. an act for the benefit of the widow and heirs of Joseph Sansberry, deceased; 11. an act for the benefit of the heirs of Byrd Linear; 12. an act for the benefit of the heirs of George Scott, deceased, and 13. an act for the benefit of Benjamin Wright, were severally read the first time.

The question being taken on reading the 1st, 7th, 8th, 10th and 12th bills a second time, it was resolved in the negative; and so the said bills were rejected.

The rule being dispensed with, the remainder of said bills were read a second and third times.

Resolved, That the said bills do pass, and that Mr. T. Ward inform the House of Representatives thereof.

The following bills were reported, to wit:

By Mr. C. H. Allen—A bill for the benefit of Edmund Bartlett.

And by Mr. Owens—A bill supplemental to an act to fix the ratio and apportion the representation for the ensuing four years.

Which were severally read the first time, and ordered to be read a second time; and the rule being dispensed with, the former bill was read a second time and ordered to be engrossed and read a third time.

Engrossed bills, to wit: 1. A bill giving clerks further time to execute their bonds; 2. a bill to repeal all laws allowing a replevin of two years on contracts entered into after the first day of June next; 3. a bill to amend the act incorporating the Centre College at Danville, and 4. a bill to amend the law relative to civil pro-

ceedings, were severally read a third time, and the 1st, 3d and 4th amended at the Clerk's table.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act giving clerks further time to execute their bonds, and for other purposes;" "an act to amend the act incorporating the Centre College at Danville," and "an act to amend the law relative to civil proceedings."

Ordered, That Mr. T. Ward inform the House of Representatives thereof, and request their concurrence.

The question being taken on the passage of the third bill, it was resolved in the affirmative—Yeas 27, nays 6.

The yeas and nays being required thereon by Messrs. C. H. Allen and Bowman, were as follows, to wit:

Those who voted in the affirmative, are, Mr. Speaker, Messrs. Ballinger, Barbee, Barrett, Beauchamp, Cowan, Davidson, Denny, Faulkner, Flournoy, Forsythe, Hickman, Howard, Lyon, M'Afee, Marshall, Mayo, Miller, Owens, Roper, Rudd, Smith, Towles, T. Ward, White, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. H. Allen, Bowman, Carneal, Dawson, Duncan and Morehead.

The second bill was committed to Messrs. M'Afee, Beauchamp, Carneal, Marshall and Denny.

The Senate received a message from the House of Representatives, announcing that they had concurred in the amendments made by the Senate, to bills of the following titles, to wit: An act to compensate John Sterrett for surveying the road from Bowling-green to the Ohio; an act to authorise the transcribing a book of entries in the office of the surveyor of Nelson county, and for other purposes; an act to repeal in part an act entitled "an act to amend an act regulating taverns and restraining tippling houses; an act to prescribe the duties of the Judges of the Court of Appeals, and for other purposes; an act to amend an act authorising a lottery for opening a road from the Beaver Creek Iron-Works to Prestonsburg; an act for the benefit of Thomas Pitman; an act authorising the publication of advertisements in "The News-Letter;" an act more effectually to suppress gaming, and an act allowing additional justices of the peace to certain counties, with amendments to those made to the latter.

The said amendments were taken up and concurred in.

Ordered, That Mr. Dawson inform the House of Representatives thereof.

The following bills were read a second time, to wit: 1. A bill to amend the law concerning the collection of officers' fees; 2. a bill for the relief of the actual settlers on the public lands west of Tennessee river, and 3. a bill for the benefit of certain sheriffs.

The first was laid on the table, the second was committed to Messrs. Lyon, Owens, Roper and Marshall, and the third was ordered to be engrossed and read a third time.

Bills from the House of Representatives, of the following titles, to wit: 1. An act to establish election precincts in the counties of Floyd, Henry and Mason; 2. an act for the divorce of Emily Nixon and others; 3. an act for the benefit of the administrators of Rezin Clubb, deceased, and 4. an act to authorise the clerk of Logan county to record certain certificates, and for other purposes, were severally read the first time and ordered to be read a second time.

The rule being dispensed with, the three former bills were read a second time. The first was committed to Messrs. Carneal, Faulkner, Davidson, J. Ward and Rudd, the second to the committee of religion, and the third to the committee for courts of justice.

After some time, Mr. Carneal reported the first bill with amendments, which were concurred in, and the bill read a third time.

Resolved, That the said bill, as amended, do pass, and that the title be, "an act to establish election precincts in certain counties."

Ordered, That Mr. Carneal inform the House of Representatives thereof.

And then the Senate adjourned.

THURSDAY, DECEMBER 25, 1823.

The Senate assembled.

Mr. Flournoy presented the petition of sundry citizens of Fayette county, remonstrating against the passage of a law establishing election precincts in said county; which was read and referred to the committee of propositions and grievances.

Mr. Smith, from the committee of religion, made the following report, to wit:

The committee of religion have, according to order, had under consideration a bill from the House of Representatives, entitled "an act for the divorce of Emily Nixon and others," and have come to the following resolution thereupon, to wit:

Resolved, That the said bill *ought to pass*.

Which was concurred in.

Mr. Towles moved to lay the bill on the table until the first day of June next; and the question being taken thereon, it was resolved in the negative—Yeas 16, nays 18.

The yeas and nays being required thereon by Messrs. Beauchamp and White, were as follows, to wit:

Those who voted in the affirmative, are, Mr. Speaker, Messrs. Barbee, Barrett, Beauchamp, Denny, Faulkner, Flournoy, Hickman, Marshall, Mayo, Morehead, Roper, Towles, J. Ward, Wickliff and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Bowman, Carneal, Cowan, Davidson, Dawson, Duncan, Forsythe, Howard, Lyon, M'Afee, Miller, Owens, Rudd, Smith, T. Ward and White.

Mr. Howard then moved to amend the bill, by attaching thereto the following amendment, to wit:

"*Provided, however,* That whatever he may have received by his wife, at the time of their intermarriage, the said Chapman shall return to her, upon final separation, agreeably to the provisions of this act."

And the question being taken thereon, it was resolved in the negative—Yeas 14, nays 20.

The yeas and nays being required thereon by Messrs. Howard and Owens, were as follows, to wit:

Those who voted in the affirmative, are, Mr. Speaker, Messrs. Barbee, Barrett, Faulkner, Flourney, Hickman, Howard, Morehead, Roper, Smith, Towles, J. Ward, Wickliff and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Beauchamp, Bowman, Carneal, Cowan, Davidson, Dawson, Denny, Duncan, Forsythe, Lyon, M'Afee, Marshall, Miller, Owens, Rudd, T. Ward, White and Worthington.

The bill was then read a third time as follows, to wit:

An Act for the divorce of Emily Nixon and others.

Whereas it is represented to the Legislature, that George Nixon has been convicted of felony, and his wife, Emily Nixon, has been left without any means of support; that Elijah Rude has abandoned his wife, Elizabeth Rude; that Nancy Thompson, the wife of William Thompson, has been guilty of adultery; for which causes the parties aggrieved have petitioned to be divorced: Therefore,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the marriages between the parties aforesaid be, and the same are hereby totally dissolved, and the parties aggrieved are restored to all the rights and privileges of single persons.

And whereas it is further represented, that Nancy Chapman, wife of Peyton Chapman of Adair county, has abandoned her said husband some years ago, and will not return to, and live with him again; but occasionally returns, for short periods, for the purpose of harrassing and perplexing him, and destroying his property: Therefore,

§ 2. *Be it further enacted,* That the bonds of matrimony solemnized between the said Peyton Chapman and Nancy, be annulled, set aside and held for nought, and the said Peyton Chapman be divorced from his said wife Nancy.

And the question being taken on the passage thereof, it was resolved in the negative—Yeas 17, nays 17.

The yeas and nays being required thereon by Messrs. Flournoy and Faulkner, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Cowan, Davidson, Dawson, Duncan, Ewing, Forsythe, Lyon, M'Afee, Miller, Owens, Rudd, Smith, T. Ward, White and Worthington.

Those who voted in the negative, are, Mr. Speaker, Messrs. Barbee, Barrett, Beauchamp, Carneal, Faulkner, Flournoy, Hickman, Howard, Marshall, Mayo, Morehead, Roper, Towles, J. Ward, Wickliff and Williams.

And so the said bill was rejected.

Ordered, That Mr. Wickliff inform the House of Representatives thereof.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice have, according to order, had under consideration the petition of the heirs of Wyatt Mitchell, deceased, praying that a law may be passed authorising the sale and conveyance of a tract of land which descended to them, for the payment of his debts, and have come to the following resolution thereupon, to wit:

Resolved, That said petition *be rejected*.

Which was twice read and concurred in.

The following bills were reported, to wit:

By Mr. Roper—A bill to amend the law concerning ferries.

And by Mr. Owens—A bill altering the manner of providing for the distribution of the Acts, Journals and Reports.

The former bill was read the first time; and the rule being dispensed with, it was read a second time and laid on the table.

The Senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act for the relief of the representatives of John Bacon, deceased, and an act to repeal the act concerning champerty and maintenance, passed on the 22d day of December 1798.

And then the Senate adjourned.

FRIDAY, DECEMBER 26, 1823.

The Senate assembled.

Mr. Lyon presented the petition of sundry citizens of Caldwell county, living between the Cumberland and Tennessee rivers, praying the passage of a law exempting them from the payment of ferriages, in travelling to their musters, &c. which was read and referred to the committee of propositions and grievances.

Messrs. Barbee and Williams, from the joint committee of enrolments, reported that the committee had examined sundry enrolled bills and resolutions, of the following titles, to wit: An act to prescribe the duties of the Judges of the Court of Appeals, and for other purposes; an act more effectually to suppress gambling; an act to amend an act authorising a lottery for opening a road from Beaver Creek Iron-Works to Prestonsburg, &c.; an act incorporating the Harrodsburg Library Company; an act to compensate John Sterrett for surveying the road from Bowlinggreen to the mouth of Clover creek on the Ohio river; an act to repeal in part an act entitled "an act to amend an act regulating taverns and restraining tippling houses;" an act for the relief of the acting executor of William Hardin, deceased; an act for the benefit of the late sheriffs of Ohio, Breckinridge and Daveiss counties; an act for the benefit of Frederick Snider; an act to abolish an election precinct in the county of Cumberland; an act to fix the ratio and apportion the representation for the ensuing four years; an act for the benefit of Byrd Linear; an act to prolong and continue in force an act for the benefit of Joseph Barnett and his associates; an act to amend the law in relation to the turnpike and wilderness road; an act for the benefit of John Cotrell and others; an act for the benefit of Benjamin Wright; an act to authorise the insertion of certain advertisements in the "News-Letter" and "Telegraph;" an act allowing additional justices of the peace to certain counties; an act for the benefit of Thomas Pitman; an act providing for a change of venue in the case of William Cornwell; an act to authorise the transcribing a book of entries in the office of the surveyor of Nelson county, and for other purposes; a preamble and resolutions of the Legislature of Kentucky, in relation to the decision of the Court of Appeals on the replevin and endorsement laws, and of the Supreme Court of the U. States on the occupying claimant laws of said State; and had found the same truly enrolled.

Mr. Ewing, from the committee of propositions and grievances, made a report on the petition of Robinson P. Beauchamp; which was read and committed to a committee of the whole house on the state of the commonwealth, for Monday next.

A bill to amend the law concerning ferries, was taken up and committed to Messrs. Carneal, Roper, Marshall and Forsythe; and after some time, Mr. Carneal reported the bill with an amendment, which was concurred in, and the bill read a third time.

Resolved, That the said bill do pass, and that the title be, "an act to amend the law concerning ferries."

Ordered, That Mr. T. Ward inform the House of Representatives thereof.

Mr. Wickliff, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to repeal all laws which give the right of replevy to officers and attor-

neys at law, who officially collect money and refuse to pay over the same, and for other purposes," reported the same without amendment, and it was read a third time.

Resolved, That the said bill do pass, and that Mr. Ewing inform the House of Representatives thereof.

Mr. Wickliff presented the statement and report of the Auditor of Public Accounts, of the amount of postage paid on communications made to the Adjutant-General; which was read and referred to the committee to whom was referred the bill for increasing the salary of the Adjutant-General.

A bill to alter the manner of distributing the Acts, Journals and Reports, was read the first time. The rule being dispensed with, it was read a second time, and committed to Messrs. Roper, Owens, Marshall, Faulkner and Bowman; and after some time, Mr. Roper reported the bill with an amendment, which was concurred in with an amendment, and the bill recommitted to Messrs. Owens, Roper and Marshall.

A bill for the benefit of securities was taken up, the amendments concurred in, and the bill laid on the table.

Ordered, That the public printers forthwith print 150 copies of said bill, for the use of the members of the Legislature.

Bills from the House of Representatives, of the following titles, to wit: An act to authorise the Clerk of Logan county to record certain certificates, and for other purposes, and an act for the benefit of the widow and heirs of James Dunbar, deceased, were severally read a second time.

The former was committed to Messrs. Howard, Ewing, Marshall, Beauchamp and Lyon, and the latter to the committee for courts of justice.

Mr. Howard reported the former bill with amendments, which were concurred in; and the question being taken on reading the bill a third time, it was resolved in the negative; and so the said bill was rejected.

Ordered, That Mr. Howard inform the House of Representatives thereof.

The Senate received, by the Secretary of State, a written message from the Governor, containing military nominations; and the rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

I did, on the 24th instant, establish a new regiment, out of part of the 67th regiment, which is denominated the 113th regiment.

I nominate for your advice and consent, William Garnett, colonel; Barnett Rogers, lieutenant colonel, and Benjamin Chapman, major of the 113th regiment.

Thomas Nelson, lieutenant colonel of the 67th regiment, in the place of William Garnett, transferred.

Daniel Roberts, major of the same regiment, in the place of Thomas Nelson, if promoted.

William Guthrie, colonel of the 1st regiment.

George W. Chambers, lieutenant colonel of the same regiment, in the place of William Guthrie, if promoted.

William Elliott, major of the same regiment, in place of G. W. Chambers, if promoted.

JOHN ADAIR.

December 26, 1823.

Resolved, That the Senate advise and consent to said appointments, and that Messrs. Ewing and Dawson inform the Governor thereof.

The following bills were read a second time, to wit: 1. A bill to amend the act concerning frauds and perjuries; 2. a bill to provide for opening public roads west of Tennessee river; 3. a bill for the benefit of Isaac and Clio Alzire Darneille, and 4. a bill supplemental to an act to fix the ratio and apportion the representation for the ensuing four years.

Mr. Roper moved to lay the first bill on the table until the first day of July next; and the question being taken thereon, it was resolved in the affirmative—Yeas 21, nays 8.

The yeas and nays being required thereon by Messrs. Beauchamp and Smith, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barrett, Bowman, Carneal, Cowan, Davidson, Dawson, Duncan, Faulkner, Flournoy, Howard, Lyon, Marshall, Morehead, Roper, Rudd, Smith, Towles, T. Ward, and White.

Those who voted in the negative, are, Mr. Speaker, Messrs. Barbee, Beauchamp, Ewing, Mayo, Miller, Owens, Worthington.

The second and third bills were ordered to be engrossed and read a third time, and the fourth was committed to Messrs. Ewing, Owens, Lyon, Mayo, Dawson, Howard and Miller.

Engrossed bills, to wit: 1. A bill better to secure the right of property to married women and their children; 2. a bill for the benefit of Edmund Bartlett, and 3. a bill for the benefit of certain sheriffs, were severally read a third time.

The first was laid on the table. The question being taken on the passage of the second, it was resolved in the negative; and so the said bill was rejected. The third bill was committed to Messrs. T. Ward, Hickman, Ewing and Mayo.

Bills from the House of Representatives, of the following titles, to wit: An act to repeal the act concerning champerty and maintenance passed on the 22d day of December 1798, and an act for the relief of the representatives of John Bacon, deceased, were severally read the first time and ordered to be read a second time.

The rule being dispensed with, the latter bill was read a second time, and committed to the committee for courts of justice.

The following nominations were taken up, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent, Athelston Owens, brigade quartermaster of the 7th brigade of Kentucky militia, vice James A. Paxton, removed.

Drury W. Poor, lieutenant colonel of the 91st regiment, vice William M. Blakey, resigned.

Ambrose S. Bramblet, colonel of the 81st regiment, vice Daniel L. Myers, resigned.

Robert Reed, lieutenant colonel of the same regiment, vice Ambrose S. Bramblet, promoted.

Silas Dougherty, major of the same regiment, vice Robert Reed, promoted.

John Conner colonel of the 20th regiment, vice William Finish, resigned.

George White, lieutenant colonel of the same regiment, vice Gabriel Miles, resigned.

William P. Sutton, major of the same regiment, vice John Conner, promoted.

James S. Henderson, brigade quartermaster of the 24th brigade, vice Samuel Wilson, resigned.

JOHN ADAIR.

December 20, 1823.

Resolved, That the Senate advise and consent to said appointments, and that Messrs. Ewing and Dawson inform the Governor thereof.

On the motion of Mr. Flournoy, leave was given to report a bill to carry into operation the Lunatic Asylum; and on the motion of Mr. Bowman, a bill to change the time of meeting of the Legislature.

Which bills were severally read the first time, and ordered to be read a second time; and the rule being dispensed with, the latter was read a second time, and amended at the Clerk's table.

The vote whereby a bill from the House of Representatives, entitled "an act to amend the execution laws of this commonwealth," was laid on the table until the first day of June next, was reconsidered, and the bill was committed to Messrs. Marshall, Towles, Carneal, Howard and Owens.

Ordered, That Messrs. C. H. Allen and T. Ward be appointed on the part of Senate, to co-operate with a committee from the House of Representatives, to draught a remonstrance concerning the occupying claimant laws, agreeably to the preamble and resolutions on that subject.

And then the Senate adjourned.

SATURDAY, DECEMBER 27, 1823.

The Senate assembled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed the enrolled bills and resolutions reported by the committee of enrolments on yesterday.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee reported that they had performed that duty.

Mr. Beauchamp moved the following resolution, to wit:

Resolved, That a committee of five members of the Senate be appointed to enquire whether the Keeper of the Penitentiary charges higher for articles manufactured in the Penitentiary, than they ought to sell at, and whether the Agent charges more for them than the Keeper has priced them at; and that said committee have power to send for persons, papers and records, for their information, and that they report the facts specially, together with their opinion thereupon, to the Senate.

Which was adopted, and Messrs. Beauchamp, Dawson, J. Ward, Mayo and Cowan were appointed a committee in pursuance thereof.

On the motion of Mr. Marshall, leave was given to report a bill concerning the Directors of the Bank of Kentucky, which was read the first time; and the rule being dispensed with, it was read a second time.

Mr. Bowman moved the following as a substitute for the bill, to wit:

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of the second section of the act entitled "an act to amend and extend the charter of the Bank of Kentucky," approved the 26th December 1820, as prescribes that no person shall act as a Director of said Bank more than three years in succession, and precludes more than two-thirds of the Directors who are in office at the time of an annual election, from being elected for the next succeeding year, be, and the same is hereby repealed.

And the question being taken on the adoption thereof, it was resolved in the negative—Yeas 14, nays 20.

The yeas and nays being required thereon by Messrs. Faulkner and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Mr. Speaker, Messrs. Barbee, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Roper, Towles, J. Ward, Wickliff and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barrett, Beauchamp, Carneal, Dawson, Duncan, Forsythe, Lyon, M'Afee, Marshall, Mayo, Miller, Morehead, Owens, Smith, T. Ward, White and Worthington.

The bill, having been engrossed, was read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 21, nays 12.

The yeas and nays being required thereon by Messrs. Faulkner and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barrett, Beauchamp, Carneal, Dawson, Duncan, Forsythe, Lyon, M'Afee, Marshall, Miller, Morehead, Owens, Roper, Rudd, Towles, J. Ward, T. Ward, White and Worthington.

Those who voted in the negative, are, Mr. Speaker, Messrs. Barbee, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Smith, Wickliff and Williams.

Resolved, That the said bill do pass, and that the title be, "an act concerning the Directors in the Bank of Kentucky."

Ordered, That Mr. Owens inform the House of Representatives thereof, and request their concurrence.

The Senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit:

1. An act for the benefit of Peter Breeding and others, of Casey county; 2. an act to amend an act for surveying the military claims west of Tennessee river; 3. an act to correct an accidental variance in the books of the Auditor and Treasurer; 4. an act for the divorce of Nancy Eastland and Sally Chisney; 5. an act to regulate the issuing executions; 6. an act for the benefit of the heirs of Benjamin Cullins, deceased; 7. an act for the benefit of Matthew Harper; 8. an act to authorise the surveyors of Harlan and Jefferson counties to transcribe certain books in their offices, and 9. an act to regulate the toll of certain turnpike gates in this commonwealth.

The five first bills were read the first time, and ordered to be read a second time.

The question being taken on reading the fifth bill a second time, it was resolved in the affirmative—Yeas 20, nays 12.

The yeas and nays being required thereon by Messrs. Faulkner and Lyon, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Duncan, Ewing, Forsythe, Lyon, M'Afee, Mayo, Miller, Morehead, Owens, Rudd, T. Ward, White and Worthington.

Those who voted in the negative, are, Mr. Speaker, Messrs. Bowman, Cowan, Faulkner, Flournoy, Hickman, Howard, Roper, Smith, Towles, J. Ward and Williams.

The rule being dispensed with, the 1st, 2d, 3d and 5th bills were read a second time, and the 1st and 3rd a third time.

Resolved, That the first and third bills do pass, and that Mr. Ewing inform the House of Representatives thereof.

The second bill was committed to Messrs. Howard, Lyon, Ewing and Beauchamp, and the fifth to Messrs. T. Ward, M'Afee, Owens, C. H. Allen, Dawson and Marshall.

On the motion of Mr. Wickliff, leave was given to bring in a bill supplemental to the act fixing the ratio and apportioning the representation for the next four years, for the purpose of giving to Oldham county one representative; and Messrs. Wickliff, C. H. Allen and Carneal were appointed a committee to prepare and bring it in.

Engrossed bills, to wit: A bill to provide for opening public roads west of Tennessee river, and a bill for the benefit of Isaac and Clio Alzire Darneille, were severally read a third time.

The question being taken on the passage of the former bill, it was resolved in the affirmative—Yeas 18, nays 15.

The yeas and nays being required thereon by Messrs. Flournoy and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Mr. Speaker, Messrs. Ballinger, Barbee, Barrett, Beauchamp, Carneal, Davidson, Dawson, Duncan, Forsythe, Hickman, Lyon, M'Afee, Mayo, Miller, Owens, Towles and T. Ward.

Those who voted in the negative, are, Messrs. C. H. Allen, Bowman, Cowan, Faulkner, Flournoy, Howard, Morehead, Roper, Ruda, Smith, J. Ward, White, Wickliff, Williams and Worthington.

Resolved, That the former bill do pass, and that the title be, "an act to provide for opening public roads west of Tennessee river."

Ordered, That Mr. Lyon inform the House of Representatives thereof, and request their concurrence.

The latter bill was laid on the table until the first day of June next.

The Senate received information, by the Secretary of State, that the Governor did on this day approve and sign enrolled resolutions, which originated in the Senate, of the following titles, to wit: A resolution fixing on a day for the election of Bank Officers, and a resolution for the benefit of Joseph and Thomas Rotch.

Ordered, That Mr. T. Ward inform the House of Representatives thereof.

A bill from the House of Representatives, entitled "an act to repeal the act concerning champerty and maintenance passed on the 22d day of December 1798," was read a second time, amended at the Clerk's table, and ordered to be read a third time.

A bill to alter the time for the meeting of the General Assembly, was laid on the table until the first day of June next.

The Senate received, by Mr. Waggener, a written message from the Governor, containing nominations of officers for Meade county.

And then the Senate adjourned.

MONDAY, DECEMBER 29, 1823.

The Senate assembled.

The Lieutenant-Governor appeared and resumed his duties.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice have, according to order, had under consideration a bill from the House of Representatives, entitled "an act for the benefit of the widow and heirs of James Dunbar, deceased," and have come to the following resolution thereupon, to wit:

Resolved, That the said *ought not to pass*.

Which being twice read, and the resolution amended, by striking out the word "*not*," was concurred in.

The bill was re-committed to Messrs. Mayo, M'Afee, C. H. Allen and T. Ward.

Mr. Wickliff reported a bill supplemental to an act to fix the ratio and apportion the representation for the ensuing four years, which was read the first time; and the question being taken on reading the said bill a second time, it was resolved in the negative, and so the said bill was rejected.

The Senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Faulkner in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Faulkner, reported, that the committee had, according to order, had under consideration the report of the committee of propositions and grievances on the petition of Robinson P. Beauchamp, and had gone through the same with an amendment.

The report was then read as follows, to wit:

The committee of propositions and grievances have, according to order, had under consideration the petition of R. P. Beauchamp, praying the passage of a law for appropriating a certain sum of money for notes on the Bank of the Commonwealth which have been destroyed by casualty, and have come to the following resolution thereupon, to wit:

Resolved, That the said petition *be rejected*.

The amendment striking out the words "be rejected," and inserting in lieu thereof the words "is reasonable," was concurred in.

Ordered, That the committee of propositions and grievances prepare and bring in a bill pursuant to said resolution.

The Speaker laid before the Senate a communication from William Littell, in relation to the Term Reports; which was read and laid on the table.

The Senate received several messages from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act to authorise the Register to transcribe certain entries, and an act for the benefit of George Corn and Samuel Foster; and the adoption of resolutions in relation to the sale of articles manufactured in the Penitentiary. Also, the passage of bills from the Senate, of the following titles, to wit: An act for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes; an act to establish a Botanical Garden, and an act concerning the Directors of the Bank of Kentucky—each with amendments.

Mr. Ewing, from the committee of propositions and grievances, reported a bill for the benefit of Robinson P. Beauchamp, which was read the first time; and the rule being dispensed with, the bill was read a second time, and committed to the committee for courts of justice.

Mr. Lyon, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to amend an act for surveying the military claims west of Tennessee river," reported the same with an amendment, which was concurred in, and the bill read a third time.

Resolved, That the said bill, as amended, do pass, and that Mr. Lyon inform the House of Representatives thereof.

A resolution for printing the preamble and resolutions in relation to the decisions on the endorsement and replevin laws and the occupying claimant laws, was laid on the table until the first day of June next.

Mr. Marshall, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to amend the execution laws," reported the same with amendments, which were concurred in, and the bill then read as follows, to wit:

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the passage of this act, on all judgments rendered upon obligations payable in bank notes, and where the same shall have been scaled or reduced to a specie standard by the jury, the defendant or defendants in all such cases shall only be allowed three months' replevin.

§ 2. *Be it further enacted*, That it shall be the duty of any tribunal which may pronounce judgment upon obligations of the description aforesaid, to connect with the record of said judgment, a statement that it was rendered on a written agreement for the

payment of bank notes, and that the same has been scaled; and the clerk or justice of the peace shall make a similar endorsement on any execution that may issue thereon.

§ 3. *Be it further enacted*, That the clerk or justice of the peace shall endorse on the execution which may issue on such three months' replevy bonds as aforesaid, taken under the provisions of this act, that no security shall be taken; and any estate or property levied upon by virtue of such executions, shall be appraised by the commissioners appointed by the county court, to its fair value in the money of the United States, and shall not be sold, except with the assent of the owner, unless such estate will sell for three-fourths of such appraised value, subject to the rules and regulations contained in the act to regulate endorsements on executions, approved December 21st, 1821.

§ 4. *Be it further enacted*, That justices of the peace shall have jurisdiction on all notes, bonds or obligations for the payment of notes on the Bank of the Commonwealth of Kentucky, the Bank of Kentucky, or the current bank paper of Kentucky, or of any of the United States, or of the United States, not exceeding fifty dollars, any law to the contrary notwithstanding.

Mr. Owens then moved the following sections in lieu of said bill, to wit:

§ 1. [*Insert, after the enacting clause:*] That hereafter, in any suit depending upon any contract for the payment of notes of the Bank of Kentucky or of the Commonwealth, or for the payment of the current paper of the state, such debt shall not be scaled by the court or justice of the peace before whom such suit shall be determined; but judgment shall be given for the full amount of such debt, to be discharged in the paper of the Bank of the Commonwealth, or Bank of Kentucky: *Provided*, the plaintiff or his attorney, at the calling or hearing of such suit, makes a written statement on the declaration or warrant, in substance, that he or she is willing to take notes on the Bank of the Commonwealth of Kentucky, in discharge of such debt; and the clerk or other officer issuing execution upon such judgment, shall endorse upon such execution, that the officer may, in discharge of such execution, take notes on the Bank of the Commonwealth of Kentucky; and in such case the defendant or defendants shall be entitled to three months' replevin only, by giving the officer bond and approved security to pay the plaintiff the amount of such debt, interest and cost, in the paper of the Bank of the Commonwealth of Kentucky, in three months; which bond shall be returned to the proper office, and in case said bond is not discharged when the same becomes due, the clerk or justice of the peace, upon the application of the plaintiff, shall issue an execution for the amount of such bond, upon which the same endorsement shall be made, and that

no security of any kind is to be taken by the officer collecting the same, and such officer shall be governed accordingly.

§ 2. *Be it further enacted*, That justices of the peace shall have jurisdiction on all notes, bonds or obligations for the payment of notes on the Bank of the Commonwealth of Kentucky, Bank of Kentucky, or the current bank paper of Kentucky, not exceeding fifty dollars, any law to the contrary notwithstanding.

And the question being taken on the adoption thereof, it was resolved in the affirmative—Yeas 28, nays 3.

The yeas and nays being required thereon by Messrs. Dawson and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Blackburn, Bowman, Cowan, Dawson, Duncan, Ewing, Faulkner, Flournoy, Hickman, Howard, Lyon, Mayo, Miller, Morehead, Owens, Roper, Rudd, Smith, J. Ward, White, Williams and Worthington.

Those who voted in the negative, are, Messrs. Carneal, Davidson, Forsythe, M'Afee, Marshall, Towles, T. Ward and Wickliff.

Mr. Howard then moved to amend the bill, by adding thereto the following sections, to wit:

§ 3. *Be it further enacted*, That in case the plaintiff fails or refuses to make a written statement, as permitted by the first section of this act, that he or she is willing to take the paper of the Bank of the Commonwealth of Kentucky, in discharge of his or her judgment, and the court or justice of the peace shall scale the same to a specie standard, by their judgment or by the verdict of a jury, when the same shall amount to twenty dollars or upwards, the defendant or defendants shall, in all such cases, be allowed a replevin of three months only; and it shall be the duty of the court or justice of the peace, pronouncing the judgment upon obligations of the description aforesaid, which may be scaled as aforesaid, to connect with the record of said judgment, a statement that it was rendered on a written agreement, note, or obligation for the payment of bank notes or current paper, and that the same has been scaled; and the clerk or justice of the peace shall make a similar endorsement on any execution that may issue thereon.

§ 4. *Be it further enacted*, That the clerk or justice of the peace, shall endorse on the execution which may issue on such three months' replevin bond as aforesaid, taken under the provisions of this act, that no security shall be taken; and all property, of every kind, taken by virtue of such executions, shall be valued by the commissioners appointed by the county court, at its value in specie, subject to the rules and regulations contained in the act to regulate endorsements on executions, approved December 21st, 1821; and it shall be the duty of the defendant in execution to have said valuation made.

And the question being taken thereon, it was resolved in the affirmative—Yeas 18, nays 17.

The yeas and nays being required thereon by Messrs. Howard and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Balingier, Barbee, Barrett, Blackburn, Bowman, Cowan, Davidson, Faulkner, Howard, M'Affee, Marshall, Roper, Rudd, Towles, J. Ward, White and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Beauchamp, Dawson, Duncan, Ewing, Flournoy, Forsythe, Hickman, Lyon, Mayo, Miller, Morehead, Owens, Smith, T. Ward, Wickliff and Worthington.

Mr. Owens then moved to lay the bill on the table until the first day of June next; and the question being taken thereon, it was resolved in the negative—Yeas 12, nays 24.

The yeas and nays being required thereon by Messrs. Owens and Howard, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Beauchamp, Dawson, Duncan, Ewing, Forsythe, Marshall, Mayo, Miller, Morehead, Owens and Wickliff.

Those who voted in the negative, are, Messrs. C. Allan, Balingier, Barbee, Barrett, Blackburn, Bowman, Carneal, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Lyon, M'Affee, Roper, Rudd, Smith, Towles, J. Ward, T. Ward, White, Williams and Worthington.

The bill was then read a third time,

And the Senate adjourned.

TUESDAY, DECEMBER 30, 1823:

The Senate assembled.

Mr. Ewing, from the committee of propositions and grievances, made the following report, to wit:

The committee of propositions and grievances have, according to order, had under consideration the petition of sundry citizens of Fayette county, remonstrating against the passage of a law laying off said county into election precincts, and have come to the following resolution thereupon, to wit:

Resolved, That said petition *be rejected*.

Which was twice read and concurred in.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice have, according to order, had under consideration two bills from the House of Representatives, of the following titles, to wit: An act for the benefit of the administrators of Rezin Clubb, deceased, and an act for the bene-

fit of the representatives of John Bacon, deceased, and have come to the following resolution thereupon, to wit:

Resolved, That the said bills *ought to pass*.

Which was concurred in, and the bills read a third time.

Resolved, That the said bills do pass, and that Messrs. C. H. Allen inform the House of Representatives thereof.

Mr. M'Affee read and laid on the table a resolution for printing a certain number of copies of the decisions of the Court of Appeals on the replevin and endorsement laws.

Mr. Williams, from the joint committee of enrolments, reported that they had examined enrolled bills of the following titles, to wit: An act to repeal all laws which give the right of replevy to officers and attorneys at law, who officially collect money and refuse to pay over the same, and for other purposes; an act for the benefit of Peter Breeding and others of Casey county, and an act to correct an accidental variance in the books of the Auditor and Treasurer; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Williams reported that they had performed that duty.

The Senate received several messages from the House of Representatives, announcing the passage of the following bills which originated in the Senate: An act for the benefit of the devisees of John Thruston, deceased; an act for the benefit of the heirs of Philip Buckner, deceased, and an act to amend the law concerning ferries—with amendments to the latter; and that they had passed bills of the following titles, to wit: An act for the benefit of John Kinkaid's heirs; an act for the benefit of Rachael Fleming and Elizabeth Dale; an act to prevent the masters of vessels and others from employing or removing persons of colour from this State; an act appointing commissioners for the protection of the navigation of Big Barren river; an act to provide for the sale of so much of the real estate of William M'Dowell and William S. M'Dowell, deceased, as may be necessary to pay their debts, and an act to extend the terms of the Green circuit court.

The bill and amendment concerning ferries, were committed to Messrs. Carneal, White and Wickliff.

Mr. Lyon reported a bill authorising the county court of Caldwell county to contract for the ferriage of the citizens of the south side of Cumberland river, in said county; which was read the first time.

The rule being dispensed with, said bill was read a second and third times, (having been engrossed.)

Resolved, That the said bill do pass, and that the title be, "an act authorising the county court of Caldwell county to contract for the ferriage of the citizens of the south side of Cumberland river, in said county."

Ordered, That Mr. Lyon inform the House of Representatives thereof, and request their concurrence.

Mr. Ewing, from the select committee to whom was referred "a bill supplemental to an act to fix the ratio and apportion the representation for the ensuing four years," reported the same with amendments.

Mr. Flournoy moved to lay the bill and amendments on the table until the first day of July next; and the question being taken thereon, it was resolved in the affirmative—Yeas 19, nays 16.

The yeas and nays being required thereon by Messrs. Flournoy and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, C. H. Allen, Barbee, Bowman, Carneal, Cowan, Davidson, Faulkner, Flournoy, Forsythe, Hickman, Howard, Marshall, Morehead, Roper, Rudd, Towles, White and Williams.

Those who voted in the negative, are, Messrs. Ballinger, Barrett, Beauchamp, Blackburn, Dawson, Duncan, Ewing, Lyon, M'Afee, Mayo, Miller, Owens, Smith, J. Ward, T. Ward and Wickliff.

Mr. Faulkner, from the committee of privileges and elections, made the following report, to wit:

The committee of privileges and elections have, according to order, had under consideration the returns from the senatorial districts, and do report the following gentlemen elected, to wit: From the counties of Caldwell, Livingston, Hickman and Calhoun, Chittenden Lyon; Christian, Trigg and Todd, Young Ewing; Butler, Muhlenberg and Grayson, William Worthington; Logan and Simpson, Charles Morehead; Warren and Allen, Anack Dawson; Barren and part of Monroe, John Gorin; Cumberland, Wayne, and part of Monroe, Granville Bowman; Hardin and Bullitt, Christopher Miller; Green and Hart, Elias Barbee; Jefferson, James W. Denny; Nelson, Martin H. Wickliff; Washington, Jeroboam Beauchamp; Henry, Charles H. Allen; Shelby, Samuel W. White; Mercer, Robert B. M'Afee; Garrard, John Faulkner; Knox, Clay, Whitley and Harlan, Richard Ballinger; Gallatin, Pendleton and Grant, John Forsythe; Boone and Campbell, Thomas D. Carneal; Woodford and Jessamine, William B. Blackburn; Fayette, Matthews Flournoy; Clarke, Chilton Allan; Montgomery and Estill, Samuel L. Williams; Bath, Floyd, Morgan, Pike and part of Perry and Lawrence, Henry B. Mayo; Mason, James Ward; Fleming, William P. Roper; Nicholas and Bracken, John H. Rudd; Bourbon, John L. Hickman; Scott, Rodes Smith; Madison, Thomas C. Howard; Harrison, Peter

Barrett; Breckinridge, Daveiss and Ohio, Benjamin Duncan; Lincoln and Rockcastle, James Davidson; Franklin and Owen, John J. Marshall; Henderson, Hopkins and Union, Thomas Towles; Pulaski, John Cowan; Adair and Casey, William Owens; Greenup, Lewis and part of Lawrence, Thomson Ward.

It was moved and seconded to re-consider the vote on yesterday, whereby the resolution for printing the preamble and resolutions of the Legislature in relation to the decisions on the replevin and occupying claimant laws, was laid on the table; and the question being taken thereon, it was resolved in the affirmative—Yeas 20, nays 16.

The yeas and nays being required thereon by Messrs. Beauchamp and T. Ward, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Duncan, Ewing, Forsythe, Lyon, M'Affee, Mayo, Miller, Morehead, Owens, Rudd, Smith, T. Ward and Worthington.

Those who voted in the negative, are, Messrs. C. Allen, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Roper, Towles, J. Ward, White, Wickliff and Williams.

The resolution was then read as follows, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky, That Kendall & Co. print 1,000 copies of the preamble and resolutions of this Legislature in relation to the decision of the Court of Appeals on the replevin and endorsement laws, and the decision of the Supreme Court of the United States on the occupying claimant laws, for the use of the members, to be distributed among the good people of this commonwealth, together with the yeas and nays taken on the adoption of the said preamble and resolutions.

Mr. C. Allan moved to amend the resolution, by attaching thereto the following clause, to wit:

"Also, the decision of the Judges of the Court of Appeals on the endorsement and replevin laws, and the argument of Thomas Montgomery in answer to the preamble of John Rowan."

A division of the question being called for, it was first taken on printing the decision of the Court of Appeals, and it was resolved in the negative—Yeas 17, nays 18.

The yeas and nays being required thereon by Messrs. C. Allan and Howard, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Blackburn, Carneal, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Roper, Rudd, Smith, Towles, J. Ward, Wickliff and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Dawson, Duncan, Ewing,

Forsythe, Lyon, M'Afee, Mayo, Miller, Morehead, Owens, T. Ward, White and Worthington.

The question was then taken on the other branch of the amendment, and it was resolved in the negative—Yeas 15, nays 21.

The yeas and nays being required thereon by Messrs. C. Allan and Howard, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Roper, Rudd, Towles, J. Ward and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Duncan, Ewing, Forsythe, Lyon, M'Afee, Mayo, Miller, Morehead, Owens, Smith, T. Ward, White, Wickliff and Worthington.

Mr. Hickman then moved to amend the resolution, by striking out the words "preamble and;" and the question being taken thereon, it was resolved in the negative—Yeas 16, nays 20.

The yeas and nays being required thereon by Messrs. Hickman and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Roper, Towles, J. Ward, White, Wickliff and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Duncan, Ewing, Forsythe, Lyon, M'Afee, Mayo, Miller, Morehead, Owens, Rudd, Smith, T. Ward and Worthington.

The question was then taken on the adoption thereof, and it was resolved in the affirmative—Yeas 20, nays 16.

The yeas and nays being required thereon by Messrs. Howard and M'Afee, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Duncan, Ewing, Forsythe, Lyon, M'Afee, Mayo, Miller, Morehead, Owens, Rudd, Smith, T. Ward and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Roper, Towles, J. Ward, White, Wickliff and Williams.

Ordered, That Mr. M'Afee inform the House of Representatives thereof, and request their concurrence.

The Senate took up the following message from the Governor, to wit:

Gentlemen of the Senate,

The recommendations having been made to me agreeably to the provisions of the constitution, I nominate for your advice and consent, Joseph Stith, James Woolfolk, John H. Trent, William Ditto, William Garnett, Joseph Atwell, Robert Washington and

William Faushee, justices of the peace; Benjamin Shacklett, sheriff, and Jesse Shacklett, coroner, in and for the county of Meade.

JOHN ADAIR.

December 27, 1823.

Resolved, That the Senate advise and consent to said appointments, and that Messrs. Miller and Dawson inform the Governor thereof.

Mr. T. Ward, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to regulate the issuing executions," reported the same with amendments.

The first section of the bill was read as follows, to wit:

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all and every act and acts, and part of any act or acts, which authorises any proceeding in any civil case, in law or in chancery, or upon any execution, otherwise, or in any manner contrary to an act entitled "an act to abolish imprisonment for debt and subject equitable interests to execution," approved December 17th, 1821; or in any other manner, or contrary to another act, entitled "an act to amend an act to regulate endorsements on executions," approved December 21st, 1821, shall be, and the same are hereby repealed: *Provided, however*, that this act shall not be construed to extend to, or in anywise affect the provisions of an act entitled "an act to amend an act regulating endorsements on executions," approved December 7th, 1822; *and provided also*, that this act shall not be construed to extend to executions issued upon judgments obtained against sheriffs or other officers, or attorneys at law, for official defalcations; *and provided also*, that nothing herein contained shall be construed to prohibit any court from issuing any writ of *habere facias possessionem*, or other writ of possession in real actions.

The first amendment proposes to strike out the words, "That all and every act and acts, and part of any act or acts, which authorises any proceeding in any civil case, in law or in chancery, or upon any execution," and insert in lieu thereof the words, "That all laws which authorise the issuing of any execution upon any judgment or decree of any court or justice of the peace within this commonwealth, or which authorise proceedings on any execution."

And the question being taken on said amendment, it was resolved in the affirmative—Yeas 22, nays 11.

The yeas and nays being required thereon by Messrs. Blackburn and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Dawson, Duncan, Ewing,

Forsythe, Hickman, Lyon, M'Afee, Mayo, Miller, Morehead, Owens, Rudd, Smith, T. Ward, White, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Howard, Towles, J. Ward and Williams.

The other amendments were concurred in, and the bill read a third time.

The question was then taken on the passage thereof, as amended, and it was resolved in the affirmative—Yeas 19, nays 16.

The yeas and nays being required thereon by Messrs. Blackburn and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Duncan, Ewing, Forsythe, Lyon, M'Afee, Mayo, Miller, Morehead, Owens, Rudd, T. Ward and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Smith, Towles, J. Ward, White, Wickliff and Williams.

Resolved, That the said bill, as amended, do pass, and that Mr. T. Ward inform the House of Representatives thereof.

A bill for the benefit of securities, and a bill to carry into operation the Lunatic Asylum, were severally taken up.

The former bill was read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 22, nays 11.

The yeas and nays being required thereon by Messrs. Wickliff and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Blackburn, Carneal, Cowan, Ewing, Faulkner, Forsythe, Howard, M'Afee, Marshall, Mayo, Miller, Owens, Rudd, Towles, J. Ward, T. Ward and Williams.

Those who voted in the negative, are, Messrs. C. Allan, Bowman, Davidson, Dawson, Duncan, Flournoy, Hickman, Lyon, White, Wickliff and Worthington.

Resolved, That the said bill do pass, and that the title be "an act for the benefit of securities."

Ordered, That Mr. Howard inform the House of Representatives thereof, and request their concurrence.

The latter bill was committed to Messrs. M'Afee, Flournoy, Ewing and C. Allan.

The following bills were reported, to wit:

By Mr. T. Ward—A bill to alter the time of holding certain circuit and county courts,

By Mr. Owens—A bill for the benefit of Nancy Cravens.

And by Mr. Marshall—A bill to regulate the jurisdiction of the General Court.

Which were severally read the first time; and the rule being dispensed with, they were read a second and third times, (having been engrossed.)

Resolved, That the said bills do pass, and that the titles be, respectively, "an act to alter the time of holding certain circuit and county courts;" "an act for the benefit of Nancy Cravens," and an act to regulate the jurisdiction of the General Court."

Ordered, That Mr. Owens inform the House of Representatives thereof, and request their concurrence.

And then the Senate adjourned.

WEDNESDAY, DECEMBER 31, 1823.

The Senate assembled.

Mr. M'Affee, from the committee for courts of justice, to whom was referred a bill from the House of Representatives, entitled "an act for the benefit of the widow and heirs of James Dunbar, deceased," reported the same with an amendment, which was concurred in, and the bill read a third time.

Resolved, That the said bill, as amended, do pass, and that Mr. Mayo inform the House of Representatives thereof.

The vote whereby a bill for the improvement of the navigation of the Kentucky river, was rejected, was re-considered, and the bill amended; and having been engrossed, it was read a third time.

The question being taken on the passage thereof, it was resolved in the affirmative—Yeas 23, nays 13.

The yeas and nays being required thereon by Messrs. Bowman and Blackburn, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Barbee, Beauchamp, Blackburn, Carneal, Davidson, Ewing, Faulkner, Flournoy, Hickman, Howard, Lyon, M'Affee, Marshall, Mayo, Miller, Smith, Towles, J. Ward, T. Ward, White, Williams and Worthington.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barrett, Bowman, Cowan, Dawson, Duncan, Forsythe, Morehead, Owens, Roper, Rudd and Wickliff.

Resolved, That the said bill do pass, and that the title be, "an act to improve the navigation of the Kentucky river."

Ordered, That Mr. Blackburn inform the House of Representatives thereof, and request their concurrence.

The Senate received a message from the House of Representatives, announcing that they had received official information that the Governor had, on the 27th and 29th instant, approved and signed enrolled bills, and a preamble and resolutions, which ori-

ginated in that house, of the following titles, to wit: An act for the benefit of the widow and children of Edward M'Guire, deceased; an act for the benefit of Benjamin Wright; an act allowing additional justices of the peace to certain counties; an act for the benefit of Thomas Pitman; an act providing for a change of venue in the case of William Cornwell; an act to prolong and continue in force an act for the benefit of Joseph Barnett and his associates; an act for the benefit of the heirs of Byrd Linear; an act to abolish an election precinct in Cumberland county; an act for the benefit of Frederick Snider; an act for the benefit of John Cotrell; an act to amend the law in relation to the turnpike and wilderness road; an act for the benefit of the late sheriffs of Ohio, Breckinridge and Daveiss counties; an act for the relief of the acting executors of William Hardin, deceased; an act to repeal in part an act entitled "an act to amend an act regulating taverns and restraining tippling houses; an act to compensate John Sterrett for surveying the road from Bowlinggreen to the mouth of Clover creek on the Ohio river; an act incorporating the Harrodsburg Library Company; an act to amend an act authorising a lottery for opening a road from Beaver Creek Iron-Works to Prestonsburg, and for other purposes; an act to prescribe the duties of the Judges of the Court of Appeals, and for other purposes; an act more effectually to suppress gaming; an act to repeal all laws which give the right of replevy to officers and attorneys at law, who officially collect money and refuse to pay over the same, and for other purposes; an act to fix the ratio and apportion the representation for the next ensuing four years; and a preamble and resolutions of the Legislature of Kentucky, in relation to the decisions of the Court of Appeals on the replevin and endorsement laws, and the Supreme Court of the United States on the occupying claimant laws of said State. Also, the passage of bills of the following titles, to wit: An act for the benefit of Daniel Trabue and others; an act to regulate certain conveyances; an act for the benefit of Alexander Guffey; an act to improve the navigation of Big Sandy river; an act to amend the acts concerning elections; an act to amend the law concerning ferries, and an act for the relief of James M. Pike; and that they had concurred in the amendments made by the Senate, to a bill entitled "an act to regulate the issuing of executions;" and also, that they had concurred in a resolution from the Senate, fixing a day for the adjournment of the Legislature, with an amendment.

Ordered, That the communication of William Littell, concerning the publication of Term Reports, be committed to Messrs. Marshall, Blackburn and Roper.

Mr. Carneal, from the select committee to whom was referred "a bill to amend the law concerning ferries," with the amend-

ments made thereto by the House of Representatives, reported the same without amendment.

Resolved, That the Senate concur in the amendments made to said bill by the House of Representatives.

Ordered, That Mr. Carneal inform the House of Representatives thereof.

The following bills were reported, to wit:

By Mr. Towles—A bill for the benefit of Thomas Rutledge.

And by Mr. Ewing—A bill to allow additional justices of the peace to the counties of Trigg and Garrard.

Which were severally read the first time; and the rule being dispensed with, they were read a second and third times, (having been engrossed.)

Resolved, That the said bills do pass, and that the titles be, respectively, "an act for the benefit of Thomas Rutledge," and "an act to allow additional justices of the peace to the counties of Trigg and Garrard."

Ordered, That Mr. Ewing inform the House of Representatives thereof, and request their concurrence.

A bill from the House of Representatives, entitled "an act for the benefit of James M. Pike," was read the first time; and the rule being dispensed with, it was read a second and third times.

Resolved, That the said bill do pass, and that Mr. Owens inform the House of Representatives thereof.

Mr. Williams, from the joint committee of enrolments, reported that they had examined enrolled bills and an enrolled resolution, of the following titles, to wit: An act to amend the law concerning ferries; an act for the benefit of the heirs of Philip Buckner, deceased; an act for the benefit of the devisees of John Thruston, deceased; an act for the benefit of James M. Pike, and a resolution as to the qualification of Presidents and Directors of the Banks; and had found the same truly enrolled.

The Senate received a message from the House of Representatives announcing that their Speaker had signed said bills and resolution.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Williams reported that they had performed that duty.

Mr. M'Affee, from the select committee to whom was referred "a bill to repeal all laws allowing a replevin of two years on contracts entered into after the first day of June next," reported the same with amendments.

The first section of the bill was then read as follows, to wit:

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the first day of June next, all laws or parts of laws allowing a replevin of two years, or for a longer

or greater time than three months, or directing the valuation of property taken under execution, be, and the same are hereby repealed, as to all contracts, obligations or causes of action which originate after said period, except as to notes, bonds or obligations given or renewed in any bank or corporation within this commonwealth.

The first amendment, which proposes to strike out the words "or directing the valuation of property taken under execution," was concurred in.

Mr. C. H. Allen then moved to lay the bill and amendments on the table until the first day of June next; and the question being taken thereon, it was resolved in the negative—Yeas 8, nays 26.

The yeas and nays being required thereon by Messrs. Roper and Flournoy, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Dawson, Duncan, Forsythe, Miller, Owens and Wickliff.

Those who voted in the negative, are, Messrs. C. Allan, Barbee, Barrett, Beauchamp, Blackburn, Bowman, Carneal, Cowan, Davidson, Ewing, Faulkner, Flournoy, Hickman, Howard, Lyon, M'Affee, Marshall, Mayo, Morehead, Roper, Smith, Towles, T. Ward, White, Williams and Worthington.

Mr. Hickman then moved to re-consider the vote whereby the first amendment was concurred in; and the question being taken thereon, it was resolved in the negative—Yeas 15, nays 20.

The yeas and nays being required thereon by Messrs. Hickman and Roper, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, C. H. Allen, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Owens, Roper, Towles, J. Ward, Wickliff and Williams.

Those who voted in the negative, are, Messrs. Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Duncan, Ewing, Forsythe, Lyon, M'Affee, Marshall, Mayo, Miller, Morehead, Rudd, Smith, T. Ward, White and Worthington.

The next amendment proposes to add to the bill the following section, to wit:

"All real estate taken by execution under the provisions of this act, shall be valued by the commissioners appointed by the county courts, at its value in gold or silver, subject to the rules and regulations contained in the "act to regulate endorsements on executions," approved December 21st, 1821:" *Provided*, that in all cases where the defendant or defendants fails or refuses to replevy for three months, as allowed by this act, the real estate so taken under execution shall be sold on a credit of three months, provided the same will command three-fourths of its value so assessed by the commissioners aforesaid."

Mr. C. H. Allen then moved further to amend said amendment, by inserting, after the word "real," in the first line, the words "or personal;" and the question being taken thereon, it was resolved in the negative—Yeas 16, nays 19.

The yeas and nays being required thereon by Messrs. Roper and C. H. Allen, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Dawson, Duncan, Forsythe, Mayo, Miller, Morehead, Owens, Rudd, J. Ward, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Bowman, Carneal, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Lyon, M'Afee, Marshall, Roper, Smith, Towles, T. Ward, White and Williams.

Mr. Flournoy moved further to amend the bill, by attaching thereto the following section, to wit:

Be it further enacted, That nothing in this act shall be so construed as to change or affect the operation of an act entitled "an act to amend an act entitled an act regulating endorsements on executions," approved December 7th, 1822.

And the question being taken thereon, it was resolved in the affirmative—Yeas 24, nays 12.

The yeas and nays being required thereon by Messrs. Flournoy and Williams, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, C. H. Allen, Ballinger, Barbee, Blackburn, Bowman, Cowan, Davidson, Dawson, Faulkner, Flournoy, Hickman, Howard, Miller, Morehead, Owens, Roper, Rudd, Smith, Towles, J. Ward, White, Wickliff and Williams.

Those who voted in the negative, are, Messrs. Barrett, Beauchamp, Carneal, Duncan, Ewing, Forsythe, Lyon, M'Afee, Marshall, Mayo, T. Ward and Worthington.

The question was then taken on re-engrossing the bill and reading it again, and it was resolved in the affirmative—Yeas 23, nays 13.

The yeas and nays being required thereon by Messrs. Beauchamp and Flournoy, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Barbee, Blackburn, Bowman, Carneal, Cowan, Davidson, Ewing, Faulkner, Flournoy, Hickman, Howard, Lyon, M'Afee, Marshall, Mayo, Miller, Smith, Towles, J. Ward, T. Ward, White and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barrett, Beauchamp, Dawson, Duncan, Forsythe, Morehead, Owens, Roper, Rudd, Wickliff and Worthington.

The bill was then read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 21, nays 15.

The yeas and nays being required thereon by Messrs. Williams and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Barbee, Blackburn, Bowman, Carneal, Cowan, Davidson, Ewing, Faulkner, Flournoy, Hickman, Howard, Lyon, M'Afee, Marshall, Smith, Towles, J. Ward, T. Ward, White and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barrett, Beauchamp, Dawson, Duncan, Forsythe, Mayo, Miller, Morehead, Owens, Roper, Rudd, Wickliff and Worthington.

Resolved, That the said bill do pass, and that the title be, "an act to repeal all laws allowing a replevin of two years on contracts entered into after the first day of June next."

Ordered, That Mr. M'Afee inform the House of Representatives thereof.

Mr. Flournoy, from the select committee to whom was referred "a bill to carry into operation the Lunatic Asylum," reported the same with amendments, which were concurred in with amendments, and the bill, having been engrossed, was read a third time.

Mr. Owens moved to amend the bill, by attaching thereto the following section, to wit:

Provided, however, That idiots shall be permitted to remain with their parents or near relations, if such parent or parents so desire, and such parent or parents shall be authorised to continue in possession of such idiot as heretofore directed by law: *Provided, however*, that the court shall not make a greater allowance for the keeping such idiot, than it would cost for keeping such person in said Asylum.

And the question being taken thereon, it was resolved in the affirmative—Yeas 27, nays 7.

The yeas and nays being required thereon by Messrs. Davidson and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Ballinger, Barbee, Barrett, Beauchamp, Blackburn, Bowman, Carneal, Cowan, Davidson, Dawson, Duncan, Ewing, Faulkner, Forsythe, Howard, Lyon, M'Afee, Marshall, Mayo, Miller, Morehead, Owens, Rudd, J. Ward, White and Wickliff.

Those who voted in the negative, are, Messrs. Flournoy, Hickman, Roper, Smith, Towles, T. Ward and Williams.

The bill was then read a third time.

Resolved, That the said bill do pass, and that the title be, "an act to carry into operation the Lunatic Asylum."

Ordered, That Mr. Flournoy inform the House of Representatives thereof, and request their concurrence.

And then the Senate adjourned.

THURSDAY, JANUARY 1, 1824.

The Senate assembled.

The Senate received a message from the House of Representatives, announcing that they had passed bills of the following titles, to wit: An act for the benefit of William Littell; an act to establish the county of Spencer; an act to amend an act entitled "an act for the benefit of religious societies in this commonwealth," approved February 1, 1814; an act providing for opening a road from Franklin to Owenborough on the Ohio, and an act to apply the net profits of the Bank of the Commonwealth, for the year 1824, in aid of the public revenue. Also, the passage of bills from the Senate, of the following titles, to wit: An act for the benefit of Ryland T. Dillard and others; an act for the benefit of Trevor, Paul and Co. and an act to repeal the law authorising the establishment of a State Road from Frankfort to Bowlinggreen; and that they had adopted a resolution requiring the Keeper of the Penitentiary to furnish the convicts with Testaments.

The Senate received, by the Secretary of State, a written message from the Governor, containing military nominations.

Mr. Ewing, from the select committee to whom was referred "a bill to repeal the act allowing postage to the Adjutant-General, and increasing his salary," reported the same with amendments.

The bill and amendments were laid on the table until the first day of July next.

Mr. Duncan presented the petition of sundry citizens of the counties of Ohio, Breckinridge and Grayson, praying the formation of a new county out of a part of each of said counties; which was read and referred to Messrs. Duncan, Blackburn and M'Affee.

Mr. Lyon, from the select committee to whom was referred "a bill for the relief of the actual settlers on the public lands west of Tennessee river, reported an amendment in lieu of the bill.

The bill and amendment were then laid on the table until the first day of July next.

The amendments made by the House of Representatives, to bills of the following titles, to wit: An act concerning the Directors of the Bank of Kentucky; an act for the benefit of Trevor, Paul & Co.; an act to establish a Botanical Garden, and an act for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes, were severally taken up.

The amendment to the first bill was read as follows, to wit:

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of the second section of the act entitled "an act to amend and extend the charter of the Bank of Kentucky," approved December 20th, 1820, as prescribes that no person

shall serve as a Director in said bank, more than three years in succession, and that not more than two-thirds of the Directors of said bank and branches, who are in office at the time of an annual election, shall be elected for the next succeeding year, be, and the same is hereby repealed.

And the question being taken upon concurring therein, it was resolved in the negative—Yeas 15, nays 16.

The yeas and nays being required thereon by Messrs. Faulkner and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Barbee, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Smith, Towles, J. Ward, White, Wickliff and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barrett, Beauchamp, Carnel, Dawson, Duncan, Lyon, M'Affee, Marshall, Mayo, Miller, Morehead, Owens, T. Ward and Worthington.

The amendments to the second and third bills were concurred in.

Ordered, That Mr. Howard inform the House of Representatives thereof.

The amendment to the fourth bill was committed to Messrs. Marshall, Worthington, M'Affee and Morehead.

It was moved and seconded to re-consider the vote whereby the bill supplemental to the act fixing the ratio and apportioning the representation for the ensuing four years, was laid on the table until the first day of June next; and the question being taken thereon, it was resolved in the affirmative—Yeas 17, nays 17, the Lieutenant-Governor voting in the affirmative.

The yeas and nays being required thereon by Messrs. Owens and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Dawson, Duncan, Ewing, Lyon, M'Affee, Mayo, Miller, Owens, Smith, T. Ward, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Morehead, Roper, Rudd, Towles, J. Ward, White and Williams.

Mr. Bowman then moved to lay the bill and amendments on the table until the first day of August next; and the question being taken thereon, it was resolved in the affirmative—Yeas 18, nays 17.

The yeas and nays being required thereon by Messrs. Bowman and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, For-

sythe, Hickman, Howard, Marshall, Morehead, Roper, Rudd, Towles, J. Ward, White and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Dawson, Duncan, Ewing, Lyon, M'Afee, Mayo, Miller, Owens, T. Ward, Wickliff and Worthington.

The amendment made by the House of Representatives to the resolution for a final adjournment of the Legislature, was taken up and concurred in.

Ordered, That Mr. Faulkner inform the House of Representatives thereof.

Mr. T. Ward, from the select committee to whom was referred an engrossed bill entitled "an act for the benefit of sheriffs," reported the same without amendment, and it was read a third time.

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of sheriffs."

Ordered, That Mr. T. Ward inform the House of Representatives thereof.

The Senate received, by the Secretary of State, a written message from the Governor; and the rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

In conformity to the provision of the act of December 10th, 1822, I nominate for your advice and consent, William Hardin, keeper of the penitentiary, to be commissioned for the term prescribed by said act.

JOHN ADAIR.

January 1, 1824.

Resolved, That the Senate advise and consent to said appointment, and that Messrs. Owens and Dawson inform the Governor thereof.

A bill from the House of Representatives, entitled "an act to amend the execution laws of this commonwealth," was taken up, further amended and read a third time.

The question being taken on the passage of said bill as amended, it was resolved in the affirmative—Yeas 18, nays 12.

The yeas and nays being required thereon by Messrs. Marshall and Carneal, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, C. H. Allen, Ballinger, Barbee, Blackburn, Carneal, Cowan, Dawson, Faulkner, Hickman, Howard, Lyon, M'Afee, Owens, Roper, Smith, Williams and Worthington.

Those who voted in the negative, are, Messrs. Barrett, Beauchamp, Duncan, Ewing, Forsythe, Marshall, Mayo, Morehead, Towles, T. Ward, White and Wickliff.

Resolved, That the said bill, as amended, do pass, and that the title be, "an act to amend the act to regulate endorsements on executions."

Ordered, That Mr. Howard inform the House of Representatives thereof.

And then the Senate adjourned.

FRIDAY, JANUARY 2, 1824.

The Senate assembled.

Mr. Carneal, from the joint committee appointed to examine the Bank of Kentucky, made the following report, to wit:

The joint committee raised for the purpose of enquiring into the situation of the Bank of Kentucky, beg leave respectfully to submit the following report thereupon:

The accompanying table marked (A,) exhibits the condition of the bank and its several branches on the 1st day of the present month. The paper marked (B,) furnishes a more detailed explanation of the different items which compose that table, and shews also the material changes which have taken place in the concerns of the institution since the last session of the legislature. By referring to these documents, it will be seen that the affairs of the bank, have, during the past year, been drawing to a close as rapidly as the situation of the country and the safety of the institution would admit. Since the report of last year, the issues of the bank have been reduced upwards of \$ 500,000, its debts have been diminished upwards of \$ 800,000, and 6,988 shares of the capital stock have been surrendered in conformity with the provisions of the act of assembly passed at the last session. The report made by the bank in pursuance of a resolution of the legislature adopted at its present session, shews the general character of the debts due the institution so far as any estimate can be formed upon the subject, and furnishes just grounds to believe that the losses will not be as great as has been anticipated, and that many of those debts, which have heretofore been regarded as doubtful, will in all probability be eventually secured. The current expenses of the institution have been somewhat abridged, by the discontinuance in the spring of the clerkships of the branches. The saving from that abridgment will be greater henceforward, than hitherto. Those of the principal bank have been magnified beyond the ordinary limits, by the considerable amount paid within the last half year for professional and clerical fees. On the night of the second of January last, the banking-house and vault of the Danville branch, was forcibly entered by some lawless person, and robbed of the sum of 9,474 dollars. Although every diligence has been used to trace out the villainy, nothing leading to a discovery has yet transpired. During

the course of the summer, it was discovered that an irregularity existed in the post note account of the Hopkinsville branch; an examination into that account was instituted, which not resulting satisfactorily, suit was directed to be brought upon the bond of the cashier in whose time the irregularity was apprehended to have arisen. The deficit reported in that account is 714 dollars; but there is reason for believing it greater. A similar irregularity exists as to the Glasgow branch, although the reports from that branch shew no deficit. All efforts to elucidate the irregularity, have as yet proved unsuccessful; there is however a prospect of having it either explained or rectified. An unfortunate accident occurred at this branch on the 30th of December last. The cashier, as he alleged, in counting and listing his money preparatory to transmission to the principal bank, upset a chair, and thereby overturned into the fire, a packet of Commonwealth's Bank notes, by which the sum of 10,335 dollars was consumed. He has since replaced a part of the amount and secured to the satisfaction of the directory of that branch, the residue to be paid in the years 1825 and '26. The directory there instituted, of their own accord, and since at the instance of the principal directory, an inquiry into the accident, and have unanimously expressed the conviction, that it occurred in the manner represented by the cashier. Your committee forbear to express any opinion upon the subject, as the matter is now under investigation in the Senate, and no evidence was submitted to them, except the report from the principal bank. In the latter end of the year 1821, it was discovered that a considerable defalcation existed in the Bardstown branch; suit was instituted against the cashier and his securities, and a judgment obtained in the Hardin circuit court for the sum of 3,979 dollars and 95 cents, which judgment is now suspended by an appeal to the Court of Appeals. Should it be confirmed, there is no doubt that the amount will be realized, as the securities are entirely responsible.

Your committee feel constrained to notice a practice which has recently been adopted by the bank, of transferring the notes of individuals under discount and accommodation to persons holding claims against the institution, in payment of those claims. The object of such assignments, is doubtless, to enable the assignees to enforce the collection thereof in lawful money of the United States, in place of exacting the same from the bank. They will not stop here, to enquire into the competency of the bank to make such transfers; they may be justified under a literal construction of the act of incorporation; but your committee feel no hesitation in saying, that assignments of this kind did not enter into the contemplation of at least one of the contracting parties at the time of the contract. That they are, as far as your committee are informed, unusual in the operations of banking institutions, and

highly injurious to those who may be the unfortunate subjects of such traffic. Your committee cannot, however, in justice to the bank, refrain from stating that in their opinion, nothing but the most imperious necessity, has induced the adoption of this course on the part of the bank; that it has been reluctantly resorted to, in only one or two instances; and they entertain the fullest confidence will never be pursued, when it can be avoided without great loss to the institution. In the collection of its debts, a call of one per centum per month, has been invariably observed by the bank, and in all instances the paper of the Bank of the Commonwealth has been received from its debtors. In compliance with the act of last session, the sum of two millions forty-three thousand one hundred and twenty-three dollars and twenty-five cents of the paper of the bank has been committed to the flames; the mode pointed out by that act has been strictly conformed to by the bank, and the vouchers evidencing the quantity of paper destroyed, have been regularly preserved. The current profits of the bank, have been greatly diminished during the past year, in consequence of the large number of notes not under regular discount. Your committee will only add, that from the best examination they have been able to make, they cannot but cherish the most entire confidence in the solvency of the institution, and in its ultimate ability to comply with all its just engagements, in a manner creditable to itself and satisfactory to the community.

Your committee cannot close this report without expressing the obligations they are under to the President and other officers of the bank, for their promptitude and readiness in furnishing the information and explanations required of them. All which is respectfully submitted to the legislature.

From the Senate,

T. D. CARNEAL,
C. ALLAN,
J. COWAN.

From the House of Representatives,

C. M. CUNNINGHAM,
J. RAPIER,
N. MOSELY,
J. TRUE, JUN.
L. L. HAWES,
W. R. GRIFFITH.

[B]

The cash consists of—Specie,	\$113,896 08
Kentucky notes	245,653 89
Commonwealth's notes	242,989 01
Other sorts	9,870 62
	\$612,409 60

The dues consist of every description of claim, whether of notes under discount, protest, suit, laying over or balances exhibited by the books as being outstanding, and is inclusive of the balances reported by the offices to be due by other offices.

The estate consists of the banking houses and such as has been acquired through the settlement of debts. The portion derived in the latter way, has been obtained partly by private agreement and partly by purchases under decrees and orders of sale.

The issues amount to	\$481,193 19
Of those issues, the Bank holds	245,653 89

Leaving in circulation	\$235,539 30
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To which add the deposits payable in Kentucky notes, or what the holders of those notes are entitled to,	\$124,713 99
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Making a responsibility in Kentucky notes or the equivalent, of	\$360,253 29
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Of the deposit, the greater portion consists of balances from one office to another and of moneys standing to the credit of debtors, which cannot be withdrawn, being applicable only to the discharge of their commitments.

The balance amounting to	\$312,562 63
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Which when reduced by the portion of said deposits answerable in Kentucky notes	124,713 99
---	------------

Will, in conjunction with the liabilities in Kentucky notes, constitute	187,849 64
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Except as to stock, the entire responsibilities of the Bank	360,253 29
---	------------

\$548,101 93

And are payable in

Specie	\$10,607 06
Kentucky notes	124,713 99
Commonwealth's notes	173,898 73
Other sorts	3,343 85

\$312,562 63

Of the stock the state holds	596,700
Individuals in entire shares	1,141,220
Residuary interests in shares	138,640

\$1,876,560

THE SENATE.

271

The number of shares surrendered under the law of last session is:

6,876 a	\$80	\$550,080
112 a	90	10,080
6988		\$560,160

The current profits are thus meagre, in consequence of the large amount of debt not under regular discount.

According to the report of December last the dues were

\$3,135,583	24
2,334,222	97

They now are

Making a reduction of debt of	801,360	27
The real estate was at that time	190,916	75
It now is	328,479	25

Making an increase of	\$137,583	50
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The deposits then were	787,461	84
They now are	740,941	05

Making a diminution of	\$46,520	79
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The issues then were	986,229	56
They now are	481,193	19

Making a diminution of	\$505,036	37
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The stock then was	2,241,320
It now is	1,876,560

Making a reduction of	\$564,760
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The surplus then was	110,835	36
It now is	156,556	29

Making a gain of	\$ 45,720	93
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There has been committed to the flames in compliance with the act of last session anterior to the date of this report \$1,914,526 50

And since the date of this report, of the notes of this bank

128,596	75
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\$2,043,123	25
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The Senate took up the nominations made on yesterday, and they were read as follows, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent, Richard Graves, lieutenant colonel of the 112th regiment, in the place of John Anderson, resigned.

George P. Brown, major of the same regiment, vice Richard Graves, promoted.

Richard B. New, colonel of the 102d regiment, vice Nathaniel Burress, resigned.

Squire H. Boone, lieutenant colonel of the same regiment, vice James L. Glenn, removed.

JOHN ADAIR.

January 1, 1824.

Resolved, That the Senate advise and consent to said appointments.

Ordered, That Mr. Ewing inform the Governor thereof.

The Senate received a message from the House of Representatives, announcing the passage of a bill entitled "an act to deposite the Journals of the Legislature in the several county court clerks' offices in this commonwealth," which was read the first time; and the rule being dispensed with, it was read a second and third times, (having been amended at the Clerk's table.)

Resolved, That the said bill do pass, and that the title be, "an act altering the mode of distributing the Acts, Journals and Reports."

Ordered, That Mr. Ewing inform the House of Representatives thereof.

An engrossed bill entitled "an act better to secure the right of property to married women and their children," was read a third time.

Mr. Flournoy moved to lay the bill on the table until the first day of June next; and the question being taken thereon, it was resolved in the affirmative—Yeas 19, nays 11.

The yeas and nays being required thereon by Messrs. Flournoy and Blackburn, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Barbee, Barrett, Bowman, Carneal, Cowan, Davidson, Dawson, Faulkner, Flournoy, Forsythe, Hickman, Lyon, Roper, Smith, Towles, J. Ward, T. Ward and White.

Those who voted in the negative, are, Messrs. Beauchamp, Blackburn, Duncan, Ewing, M'Asce, Marshall, Mayo, Miller, Owens, Williams and Worthington.

Mr. Owens, from the select committee to whom was referred "a bill altering the mode of distribution of the Acts, Journals and Reports," reported the same with amendments, which were concurred in with an amendment, and the bill laid on the table.

Bills from the House of Representatives, of the following titles, to wit: An act to authorise the Register to transcribe certain en-

tries; an act for the benefit of the heirs of Benjamin Cullens, deceased; an act to authorise the surveyors of Harlan and Jefferson counties to transcribe certain books in their offices; an act to regulate the toll of certain turnpike gates in this commonwealth, and an act for the benefit of Matthew Harper, were severally read the first time.

The question being taken on reading the latter bill a second time, it was resolved in the negative; and so the said bill was rejected.

The rule being dispensed with, the former bills were read a second and third times.

Resolved, That the said bills do pass, and that Mr. Ewing inform the House of Representatives thereof.

Messrs. Williams and Barbee, from the joint committee of enrolments, reported that they had examined enrolled bills of the following titles, to wit: An act for the benefit of Trevor, Paul & Co.; an act for the benefit of Ryland T. Dillard and others; an act for the benefit of the administrators of Rezin Clubb, deceased; an act for the relief of the representatives of John Bacon, deceased, and an act to regulate the issuing executions; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Williams reported that they had performed that duty.

Mr. Marshall, from the select committee to whom was referred "a bill for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes," together with the amendments made by the House of Representatives, reported the same with an amendment, which was concurred in.

The amendment made by the House of Representatives, to a bill to repeal the law authorising the establishment of a State Road from Frankfort to Bowlinggreen, was taken up and concurred in.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

A bill to amend and reduce into one the several acts regulating executions, was laid on the table.

Ordered, That a message be sent to the House of Representatives, requesting leave to withdraw the bill from that House, which passed the Senate, entitled "an act for establishing election precincts in Mason, Floyd and Henry counties;" and that Mr. T. Ward carry the said message.

The following bills were reported, to wit:

By Mr. Dawson—A bill for the benefit of Sampson Trammel.

And by Mr. White—A bill for the benefit of Elizabeth Rude.

Which were severally read the first time; and the rule being dispensed with, the former bill was read a second and third times, (having been engrossed.)

Resolved, That the said bill do pass, and that the title be, "an act for the benefit of Sampson Trammel."

Ordered, That Mr. Ewing inform the House of Representatives thereof, and request their concurrence.

A bill from the House of Representatives, entitled "an act for the divorce of Nancy Eastland and Sally Chisney," was read a second time and committed to the committee of religion.

A bill from the House of Representatives, entitled "an act to repeal the act concerning champerty and maintenance passed on the 22d day of December 1798," was committed to Messrs. Owens, Beauchamp, Marshall, Carneal, Roper and Towles.

A resolution from the House of Representatives, in relation to the sale of articles manufactured in the Penitentiary, was taken up and concurred in.

Ordered, That Mr. Howard inform the House of Representatives thereof.

And then the Senate adjourned.

SATURDAY, JANUARY 3, 1824.

The Senate assembled.

Mr. Smith, from the committee of religion, to whom was referred a bill from the House of Representatives, entitled "an act for the divorce of Nancy Eastland and Sally Chisney," reported the same without amendment.

The bill was read a third time, and the question being taken on the passage thereof, as amended, it was resolved in the affirmative—Yeas 20, nays 9.

The yeas and nays being required thereon by Messrs. Beauchamp and Owens, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Bowman, Cowan, Davidson, Dawson, Duncan, Ewing, Forsythe, Howard, Lyon, M'Affee, Mayo, Miller, Owens, Roper, Rudd, Smith, White, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Beauchamp, Blackburn, Faulkner, Flournoy, Hickman, Marshall, Towles and J. Ward.

Resolved, That the said bill, as amended, do pass, and that the title be, "an act for the divorce of Nancy Eastland, Sally Chisney and Peyton Chapman."

Ordered, That Mr. Owens inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing that they had concurred in the amendments made by the Senate, to bills of the following titles, to wit: An act to deposit the Journals of the Legislature in the several county clerks' offices; an act to amend the execution laws, and an act for the benefit of the widow and heirs of James Dunbar, deceased; that they insisted on their amendment to an act concerning the Directors of the Bank of Kentucky; that they disagreed to the amendment made by the Senate, upon concurring in the amendment made by the House of Representatives, to a bill which originated in the Senate, entitled "an act for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes." Also, the passage of bills from the Senate, of the following titles, to wit: An act for the benefit of Lydia Smith; an act authorising the Judge of the Mason circuit court to hold a special term; an act to amend the act incorporating the Centre College of Kentucky at Danville; an act to authorise the executors of Brumfield Long to convey certain lands; an act to change the time of holding the circuit and county courts of Calloway county; an act to allow additional justices of the peace to the counties of Trigg and Garrard; an act for the benefit of Thomas Rutledge; an act for the benefit of Joseph Cummins and others; an act allowing an additional term to the county court of Hardin; an act for the benefit of Robert C. Slaughter, and an act to alter the time of holding certain circuit courts, with amendments to the latter; and the passage of bills of the following titles, to wit: An act to amend an act entitled an act to open a road from Mountsterling to the Virginia line, by way of Prestonsburg, and for other purposes; an act for the benefit of Robert Davis; an act concerning the Penitentiary, and a resolution appointing commissioners to examine and report the state of the Penitentiary.

The two former bills from the House of Representatives were read the first time; and the rule being dispensed with, they were read a second and third times.

Resolved, That the said bills do pass, and that Mr. Ewing inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, returning the bill from that House, entitled "an act to establish election precincts in the counties of Floyd, Henry and Mason," with the amendments made thereto by the Senate.

The vote whereby the bill was passed, was then re-considered; and the bill being amended, was again read a third time.

Resolved, That the said bill, as amended, do pass, and that Mr. Carneal inform the House of Representatives thereof.

A resolution from the House of Representatives, requiring the Keeper of the Penitentiary to furnish the convicts with Testaments, was taken up and concurred in.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

Mr. Blackburn moved for leave to report a bill to extend the acts concerning occupying claimants of land; and the question being taken thereon, it was resolved in the affirmative—Yeas 20, nays 12.

The yeas and nays being required thereon by Messrs. Beauchamp and C. H. Allen, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Blackburn, Bowman, Carneal, Cowan, Davidson, Duncan, Ewing, Faulkner, Flournoy, Forsythe, Hickman, Howard, Marshall, Roper, Smith, Towles, J. Ward, White and Wickliff.

Those who voted in the negative, are, Messrs. C. H. Allen, Barrett, Beauchamp, Dawson, Lyon, M'Afee, Mayo, Miller, Owens, Rudd, T. Ward and Worthington.

It was then moved and seconded to dispense with the rule requiring the second reading of the bill; and the question being taken thereon, it was resolved in the affirmative—Yeas 28, nays 5.

The yeas and nays being required thereon by Messrs. Blackburn and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Barbee, Barrett, Blackburn, Bowman, Carneal, Cowan, Davidson, Duncan, Ewing, Faulkner, Flournoy, Forsythe, Hickman, Howard, M'Afee, Marshall, Mayo, Miller, Owens, Roper, Smith, Towles, J. Ward, T. Ward, White, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. H. Allen, Beauchamp, Dawson, Lyon and Rudd.

The bill was committed to Messrs. Carneal, Blackburn, Marshall, Roper and M'Afee.

On the motion of Mr. M'Afee, leave was given him to bring in a bill for the establishment of Common Schools; and Messrs. M'Afee, Barbee and T. Ward were appointed a committee to prepare and bring it in.

The bill concerning the Directors of the Bank of Kentucky, and the amendments made by the House of Representatives, were taken up and laid on the table until the first day of August next.

The bill for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes, together with the amendments made thereto by the House of Representatives, was again taken up and read.

Resolved, That the Senate insist upon their amendment, made upon concurring in those made by the House of Representatives.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

Bills from the House of Representatives, of the following titles, to wit: 1. An act for the benefit of George Corn and Samuel Foster; 2. an act for the benefit of John Kinkaid's heirs; 3. an act

appointing commissioners for the protection of the navigation of Big Barren river; 4. an act for the benefit of Rachael Fleming and Elizabeth Dale; 5. an act to prevent the masters of vessels and others from employing or removing persons of colour from the State; 6. an act to extend the terms of the Green circuit court; 7. an act for the benefit of Alexander Guffey; 8. an act to amend the acts concerning elections; 9. an act to amend the law concerning ferries; 10. an act for the benefit of Daniel Trabue and others; 11. an act providing for opening a road from Franklin to Owenborough on the Ohio; 12. an act for the benefit of William Littell, and 13. an act to amend an act entitled an act for the benefit of religious societies in this commonwealth, approved February 1, 1814, were severally read the first time.

The question being taken on reading the 2d, 4th, 8th and 9th bills a second time, it was resolved in the negative, and so the said bills were rejected.

The rule being dispensed with, the other bills were read a second and third times, the 12th having been amended at the Clerk's table.

Resolved, That the said bills do pass, and that the title of the 12th be, "an act prescribing the duties of the Reporter of the decisions of the Court of Appeals."

Ordered, That Mr. Ewing inform the House of Representatives thereof.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined enrolled bills and resolutions of the following titles, to wit: An act to amend an act for surveying the military claims west of the Tennessee river; an act to amend the act to regulate endorsements on executions; an act for the benefit of Lydia Smith; an act to allow additional justices of the peace to the counties of Trigg and Garrard; an act to repeal the law authorising the establishment of a State Road from Frankfort to Bowlinggreen; an act to change the time of holding the circuit and county courts of Calloway county; an act to regulate the toll of certain turnpike gates in this commonwealth; an act to authorise the Register to transcribe certain entries; an act to authorise the surveyors of Harlan and Jefferson counties to transcribe certain books in their offices; an act for the benefit of the heirs of Benjamin Cullens, deceased, and resolutions in relation to the sales of articles manufactured in the Penitentiary; and had found the same truly enrolled.

The Senate received a message from the House of Representatives announcing that their Speaker had signed said bills and resolutions.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee reported that they had performed that duty.

The Senate received information, by the Secretary of State, that the Governor did, on the 29th ult. approve and sign enrolled bills, which originated in the Senate, of the following titles, viz. An act for the relief of Thomas Hughes, sheriff of Bourbon county, and an act for the benefit of certain sheriffs: On the 1st inst. an act for the benefit of the devisees of John Thruston, deceased; an act for the benefit of the heirs of Philip Buckner, deceased, and an act to amend the law concerning ferries; also, a resolution as to the qualifications of Presidents and Directors of the banks: And on the 2d inst. an act for the benefit of Ryland T. Dillard and others, and an act for the benefit of Trevor, Paul & Co.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

Mr. Howard, from the joint committee appointed to examine the Penitentiary, made the following reports, to wit:

The joint committee raised to examine the state of the Penitentiary, have had the subject under consideration, and now submit the following report:

Your committee have examined the new wall of the Penitentiary, built in pursuance of the act of last session, and they are pleased to find, that it substantially comports with the requisitions of that act; that it is, in the opinion of your committee, built of choice materials, and the workmanship is in most respects excellent. They have also examined the work-shops, &c. in the institution, and have enquired into the nature of the employment of the convicts, and their situation generally, and are of opinion that the institution might be much benefitted by the introduction of other manufactories, such as the manufacture of wool hats, &c but the adoption of which, they will not now particularly recommend.

It is found, from the limited number and bad repair of the work-shops, that many of the convicts, in the winter, have to be brought together in one shop, and indeed, in cold or inclement weather, many remain wholly unemployed, which must result materially to the prejudice of the institution, and partially to thwart the purposes of the law which consigns them to continual hard labor.

Your committee also learn, that from the limited number of solitary cells that now exists, many of the convicts are, from necessity, permitted to lodge together; and this your committee believe to be one of the greatest objections to the present state of the institution, one of its greatest objects being the reform of the culprit; and it is believed, that neither labor nor pain contribute so efficiently to promote that object, as solitary confinement. Hard labor, coarse diet, and stripes for misbehaviour, may indeed inspire the convict with abhorrence for the place; but this, it is believed, is forgotten almost as soon as he is permitted to go at large. But when he is confined alone in a dark and solitary cell, his mind will irresistably bring in review before it, past con-

duct; and his reason, undisturbed in her empire by plots of future villainy suggested by others, will sit in solemn and awful judgment upon that conduct; and thus the great work of permanent reform will be commenced and consummated. It may be proper here to remark, that the cells required to be built by the act of last session, have not yet been begun.

Your committee have also examined the stores of the institution in the hands of the Agent. They are satisfied, that many of the manufactured articles on hand are priced too high to ensure speedy sales for cash in hand, and even on a credit, where large quantities might be in demand with a purchaser. They believe that many of those articles will perish by the hand of time, before they can be sold at the prices now required for them, and that the best interest of the State requires a speedy sale for prompt payment. It is also with some concern and regret, that they find many of the iron manufactures stored in a cellar, which, from the natural dampness of the atmosphere, must produce rust and consequent injury.

Your committee have attempted, with considerable labor, to explore the fiscal concerns of the institution, but have found that the investigation would be so protracted as not to admit of completion within the ordinary period of a session, by a committee, who, from their duties in relation to other legislative business, can only attend occasionally to such investigation. From the progress made in relation to this subject, they feel no hesitation in saying, that the institution is at present very unprofitable, in a pecuniary point of view, to the State; and they have as little doubt, that by a correct disposition of the labor of the convicts, and salutary enactments in relation to the institution generally, it would become a source of considerable revenue. But your committee are not prepared to recommend any particular enactments at this time, for want of full information touching the pecuniary and other concerns of the institution. Your committee would, in relation to these subjects, recommend the adoption of the following resolution:

Resolved by the General Assembly, That be,
and they are hereby appointed commissioners on the part of the State, to make a thorough examination of all the affairs of the Penitentiary, from the first day of October 1821, up to the first day of October 1824; and that they report to the next General Assembly, specially, the amount of manufactured articles on hand, at the prices fixed by the Keeper; the amount that have been sold annually within that period; the amount of raw materials on hand on the first day of October 1824, which are fit for use, and the amount purchased within the period aforesaid; the amount of debts due the institution, with the interest thereon, and the amount of debts collected by the institution since the first day of October 1821, which were contracted before that period, including their

interest; the amount paid into the treasury, and the amount drawn from it; the amount charged by the Keeper annually within the time aforesaid, for victualling the convicts; the amount for clothing them; the amount for their bedding and other expences incident thereto; the amount for medical services; the amount charged for fuel; the amount charged by the Keeper for repairs made on the Penitentiary; the amount for the hire of guards; the amount charged for making and repairing tools and machinery for the use of the convicts in their labor; the amount received annually during the period aforesaid, by the Keeper and Agent, respectively, by way of salary or compensation, and upon what items they have respectively charged and received a commission; the amount of manufactured articles furnished the government by virtue of any laws appropriating the same, and for what particular purposes; what amount has been received by the Keeper for the hire of convicts in enlarging the walls of the Penitentiary, and in every other employment, and what amount of materials has been furnished for such improvements or repairs. The commissioners shall also examine the prices fixed upon the manufactured articles of the institution in the hands of the Agent, and in every instance in which the prices so fixed are, in the opinion of the commissioners, too high to ensure a speedy sale for ready money, they shall reduce the same; and when the prices shall be thus reduced, they shall note the same in the schedule of the articles, and report the amount to be deducted by reason of such reduction of price; and the Agent shall thereafter be governed thereby in his sales, and the Keeper in fixing the prices on articles of a similar nature and quality, until otherwise directed by the Legislature.

The said commissioners shall also institute an inquiry into the expediency of adopting other manufactures in the institution, and report the nature of the manufactures they would recommend, and whether it will, in their opinion, be expedient to discontinue any of those now carried on.

They shall also ascertain the amount of cooking utensils, &c. which were delivered over by the late Keeper, William Starling, to the present Keeper of the Penitentiary, and what amount of money was paid by the government to the late Keeper for those articles, by what authority and upon what consideration the same was so paid.

The said commissioners shall also report any other matter which they may deem important to a full exhibition of the state of the institution during the period aforesaid, that it may readily appear what has been the annual gain or loss to the State, and as far as practicable, to say what have been the causes of loss, in all instances in which it has occurred.

Your committee will close this report by recommending that every facility be afforded to promote the preaching of the Gospel

to the convicts, in pursuance of the sentiments expressed by the last Legislature; for your committee believe, that however abandoned and profligate may be those convicts, yet they are susceptible of religious impressions, the means of acquiring which, ought at all times to be afforded by the government in whose prison they are confined. All which is respectfully submitted, &c.

From the Senate,

THOMAS C. HOWARD,
CHRISTOPHER MILLER,
SAMUEL W. WHITE,
P. BARRETT.

From the House of Representatives,

JOHN M. M'CONNELL,
BEN. W. NAPIER,
W. LYNCH,
WILLIAM RODES,
LEWIS RIDDELL,
RICHARD R. LEE,
N. P. PORTER,
W. M. WORTHINGTON.

The joint committee raised to examine the state of the Penitentiary, have, in pursuance of a joint resolution, enquired into the disbursements of the sums appropriated by the last Legislature for enlarging the walls of the institution, and have also made inquiry into the other matters mentioned in said resolution, and submit the following report:

Your committee refer, for a detailed account of the disbursements of the sum so appropriated, to the exhibit accompanying this report marked A; for all the items in which, satisfactory vouchers were exhibited to your committee. It will be seen by this exhibit, that the sum of \$362 94 of the amount appropriated by the last Legislature, remains still in the hands of the superintendents; but it will also be seen, that the superintendents have drawn from the stores of the Penitentiary, to meet the current expenditures of the building of the walls, the sum of \$2,821 93 in manufactured articles, which shows that the erection of the new walls has cost the sum of \$14,458 99. For the cost of capping the new walls of the institution, your committee refer to the accompanying document marked B. Not being themselves competent judges of that description of labor, nor of the quantity or price of materials necessary for the completion of that work, your committee must necessarily repose in the opinions of those whose professions lead to an intimate acquaintance with these matters, by four of whom, your committee believe the report marked B. is certified and signed. The whole cost of the work, as will appear by this document, is \$2,978 80 1-2. From this sum deduct the amount for nails and other articles drawn from the stores of the institution, as shown by

the accompanying document C. \$ 218 50, also \$ 362 94, the amount in the hands of the superintendents, and there remains due from the State to the superintendents, or rather the workmen who have nearly completed this part of the work, the sum of \$2,397 36 1-2, for the payment of which it will be necessary to provide by law.

Your committee believe, that the most economical plan of erecting the cells required by the act of last session, will be to employ the convicts, as mentioned in that act, and to require of the superintendents to employ a master workman in the different professions of stone-mason and carpenter, to assist in the erection of those cells, and to direct the labors of the convicts them. The stone of the old wall, it is believed, will be sufficient for the purpose of erecting the cells; but large quantities of lime, sand and timber of different descriptions will be necessary. Your committee are, therefore, unable to say, with any thing like precision, what will be the cost of their erection; but are informed, that they will cost something like \$16,000. About one half of this sum, it is believed, would be saved to the State in the labor of the convicts; a great proportion, say \$3,000, of the residue, might be discharged with articles manufactured in the institution; which would leave a claim upon the treasury, for the erection of those cells, of \$5,000.

Your committee deem it wholly unnecessary, at this time, to adopt any process of reasoning, to show the propriety of finishing and sustaining this institution. It is one which has been adopted by our humanity, and which is engrafted in our laws. To renounce it at this time, your committee believe, would be thought capricious in the extreme; and to adopt the sanguinary mode of punishment by death, for every offence now punishable by confinement in this State Prison, would, in the opinion of your committee, illy comport with that divine maxim in criminal law, *that the punishment ought to be apportioned to the character of the offence.* Your committee can, therefore, perceive no course left for the Legislature to pursue in relation to the institution, but to finish it as contemplated by the preceding Legislature, and thereby prepare it for the punishment and the reform of the convicts, as well as render it profitable to the State. Your committee would, therefore, recommend the appropriation of the sum of \$5,000 out of the public treasury, for the purpose of erecting those cells and completing the institution on the new and extended plan, with power in the superintendents to draw upon the Agent of the Penitentiary for manufactured articles in his hands, not exceeding in amount \$3,000; and to this end, your committee herewith report a bill, the passage of which they recommend.

Your committee would do injustice to their own feelings, were they to close this report without noticing the very prompt and public spirited efforts manifested by the superintendents for enlarging

the walls of the Penitentiary, in discharging the duties required of them by the act of last session, and in their endeavors to promote the success of the institution generally.

All which is respectfully submitted.

From the Senate,

THOMAS C. HOWARD,
SAMUEL W. WHITE,
P. BARRETT,
CHRISTOPHER MILLER,

From the House of Representatives,

JOHN M. MCCONNELL,
BEN. W. NAPIER,
W. LYNCH,
WILLIAM RODES,
LEWIS RIDDELL,
RICHARD R. LEE,
N. P. PORTER,
WM. WORTHINGTON.

(A.)

The Commissioners appointed under an act to enlarge the Penitentiary and for other purposes, to the Commonwealth Dr.

For amount drawn from the treasury under the provisions of said act,	12,000 00
For amount of manufactured articles, stone of old wall, and hire of convicts, paid Richard Taylor,	955 68
For amount of manufactured articles, stone of old wall, and hire of convicts, paid Blanton and Evans,	1,666 75
	\$ 14,622 43

Supra Cr.

By one-third of penitentiary wall built by Richard Taylor, agreeable to contract, being 1,376 1-2 perches at \$3 37 1-2,	4,645 68
By Blanton and Evans, for building two-thirds of said wall, being 2,768 perches and 20 feet, at \$3 37 1-2,	9,344 25
By amount paid Henry Spence for measuring wall,	1 50
By amount paid James Scofield for timbers,	139 56
By amount paid Henry Harper for locust sills,	35 00
Paid Richard Taylor for picketing timbers,	81 00
Paid J. H. Holeman for printing,	2 00
Paid Amos Kendall for printing,	4 00
Paid James Wight for horse-hire,	5 00
Paid Thomas L. Baltzell for copying contracts,	1 50
	\$ 14,259 49

Balance in the hands of the commissioners,

\$ 362 94

Amount of money and manufactured articles expended on wall,	14,622 43
Drawn by commissioners, manufactured articles for use of said wall,	199 50
	\$ 14,821 93
Deduct from the above, amount of money in the hands of commissioners,	362 94
Cost of wall without the roof,	\$ 14,458 99

(B.)

A general bill of materials and carpenter's work for capping the new walls of the Kentucky Penitentiary.

For 2,330 feet of cornice, at 37 1-2 cents per foot,	870
1,160 girders, at 12 1-2 per foot,	145
5,800 joice, at 4 per foot,	232
6,960 rafters, at 2 per foot,	129
818 posts, at 20 each,	163 60
8,120 feet of sheeting and shingling, at 4 per foot,	324 80
3 sentry boxes, at \$40 dollars each,	120
2,200 feet large oak scantling, at \$5 per hundred,	110
70,000 Shingles, at 4 50 per thousand,	315
5,200 feet scantling, at 3 25 per hundred,	169
8,700 feet sheeting plank, at 1 25 per hundred,	108 75
2,000 feet 3-4 inch plank, at 8 per hundred,	26 66
2,950 feet 1 inch plank, at \$2 per hundred,	59
2,000 feet 1-4 inch poplar plank, at 2 1-4 per foot,	45
27 logs of cedar, at 62 1-2 cents each,	16 87
Hauling and loading same,	3
19 logs of cedar, at \$1 each,	19
Bridge toll and loading,	4 50
300lbs. 10d. nails, at 15 cents,	45
200 4d. do. at 18	36
200 6d. do. at 17	34
7 boxes, at 37 1-2 each,	2 62
E. E.	\$ 2,978 80

We, the undersigned, do hereby certify that the above charges are correct. Given under our hands this 31st December, 1823.

JOHN S. ROBSON,
JOHN J. VEST,
GEORGE W. GRAHAM,
HENRY SPENCE.

(C.)

James Wight Dr. to Kentucky Penitentiary.

For balance of account for convicts' labor and articles
received of Agent, up to 25th December 1823. \$100 87 1-2

JAMES I. MILES, A. K. P.

Commissioners of Penitentiary Dr. to Agent's Office.

Nov. 5th, 1823—For 100lb. of 6d nails, at \$17,	17
200 4d do. 18,	36
200 10d do. 15,	30
Dec. 30th, 100 10d do. 15,	15
100 6d do. 17,	17
For 7 boxes containing same, at 37 1-2 c.	2 62

\$ 117 62

JAMES I. MILES, A. K. P.

The following bills were reported, to wit:

By Mr. Howard—A bill to amend an act entitled “an act to enlarge the Penitentiary, and to provide for the more speedy sale of the articles manufactured in that institution.”

And by Mr. Owens—A bill to regulate elections for Directors of the Bank of Kentucky.

Which were read the first time and ordered to be read a second time.

Bills from the House of Representatives, of the following titles, to wit: An act to apply the net profits of the Bank of the Commonwealth for the year 1824, in aid of the public revenue; an act to provide for the sale of so much of the real estate of William M'Dowell and William S. M'Dowell, deceased, as may be necessary to pay their debts; an act to establish the county of Spencer; and an act to regulate certain conveyances, were severally read the first time and ordered to be read a second time.

The rule being dispensed with, the first and second bills were read a second time. The first was committed to the committee of the whole house on the state of the commonwealth, for Monday next, and the second to the committee for courts of justice.

And then the Senate adjourned.

MONDAY, JANUARY 5, 1824.

The Senate assembled.

The Senate received a message from the House of Representatives, announcing that they had received official information that the Governor did, on the 1st instant, approve and sign enrolled

bills, which originated in that House, of the following titles, to wit: An act for the relief of James M. Pike; an act for the benefit of Peter Breeding and others of Casey county, and an act to correct an accidental variance in the books of the Auditor and Treasurer: And on the 2d instant, an act for the relief of the representatives of John Bacon, deceased; an act for the benefit of the administrators of Rezin Clubb, deceased, and an act to regulate the issuing executions.

Mr. Beauchamp, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to repeal the act concerning champerty and maintenance, passed 22d December 1798," reported the same with amendments, which were concurred in.

Mr. Carneal moved an amendment concerning occupying claimants, which was concurred in, and the bill, as amended, ordered to be read a third time.

Ordered, That the public printers forthwith print 150 copies of said bill, as amended, for the use of the members of the Legislature.

Mr. M'Afee, on the 30th December, read and laid on the table a resolution for printing a certain number of copies of the decisions of the Court of Appeals on the replevin and endorsement laws; but, by mistake, it was omitted to be noticed in the Journal.

The Senate received a message from the House of Representatives, announcing the passage of a bill from the Senate, entitled "an act to carry into operation the Lunatic Asylum," with an amendment, which was taken up and concurred in with an amendment.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

The amendments made by the House of Representatives to a bill entitled "an act to alter the time of holding certain circuit courts," were taken up and read.

Mr. Owens moved that the Senate disagree to the amendments; and the question being taken thereon, it was resolved in the affirmative—Yeas 19, nays 10.

The yeas and nays being required thereon by Messrs. Owens and Ballinger, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barrett, Beauchamp, Carneal, Duncan, Ewing, Forsythe, Lyon, M'Afee, Mayo, Miller, Owens, Rudd, Smith, J. Ward, White, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Barbee, Bowman, Cowan, Davidson, Faulkner, Hickman, Roper, Towles and Williams.

Ordered, That Mr. Owens inform the House of Representatives thereof.

Mr. Mayo, from the select committee to whom was referred a bill from the House of Representatives, entitled "an act to improve the navigation of Big Barren river," reported the same with an amendment, which was concurred in, and the bill read a third time.

Resolved, That the said bill, as amended, do pass, and that Mr. Mayo inform the House of Representatives thereof.

A bill from the House of Representatives, entitled "an act concerning the Penitentiary," was read the first time; and the rule being dispensed with, it was read a second and third times.

Resolved, That the said bill do pass, and that the title be, "an act to amend an act entitled an act to enlarge the Penitentiary, and to provide for the more speedy sale of the articles manufactured in that institution, approved December 10, 1822."

Ordered, That Mr. Howard inform the House of Representatives thereof.

A resolution from the House of Representatives, appointing commissioners to examine and report the state of the Penitentiary, was taken up, amended and concurred in.

Ordered, That Mr. Howard inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing the passage of bills of the following titles, to wit: An act for the relief of the sheriffs of Lincoln and Jessamine counties; an act for the benefit of the heirs of Robert Hunter, deceased, and an act for the benefit of the heirs of Richard Cocke and Mary Cocke, deceased.

The former bill was read the first time; and the rule being dispensed with, it was read a second and third times.

Resolved, That the said bill do pass, and that Mr. Davidson inform the House of Representatives thereof.

An engrossed bill for the benefit of a school in Washington county, was read a third time as follows, to wit:

An Act for the benefit of a School in Washington County.

Whereas it is represented to the present General Assembly, that a school has been established in the county of Washington, for the education of youth, upon a new and much cheaper plan than has been heretofore practised in this State, and the founder of it, the Rev. William Burns, after expending a considerable sum of money and devoting much time to accomplish the laudable object in view, having experienced a heavy loss by the destruction of the buildings erected for said school, by fire, which renders it necessary to afford aid to sustain the undertaking; and it being deemed an object worthy of public patronage: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sum of \$1,000 be, and the same is hereby appro-

priated for the use of said school, to be paid to the order of the Rev. William Burns, who, by applying to the Auditor, shall receive a warrant therefor, which the Treasurer shall pay out of any money in the Treasury not otherwise appropriated by law.

The question being taken on the passage thereof, it was resolved in the negative—Yeas 10, nays 17.

The yeas and nays being required thereon by Messrs. Faulkner and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Beauchamp, Ewing, Lyon, M'Afee, Marshall, Mayo, Owens, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. H. Allen, Barbee, Bowman, Cowan, Davidson, Duncan, Faulkner, Forsythe, Hickman, Howard, Miller, Roper, Smith, Towles, J. Ward, White and Williams.

And so the said bill was rejected.

Bills from the House of Representatives of the following titles, to wit: An act to regulate certain conveyances, and an act to establish the county of Spencer, were severally read a second time.

The question being taken on reading the former bill a third time, it was resolved in the affirmative—Yeas 16, nays 13.

The yeas and nays being required thereon by Messrs. Towles and Owens, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Duncan, Ewing, Forsythe, Lyon, M'Afee, Marshall, Mayo, Miller, Owens, Wickliff and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Bowman, Davidson, Faulkner, Hickman, Howard, Roper, Smith, Towles, J. Ward, White and Williams.

The latter bill was committed to the committee of propositions and grievances.

The Senate received a message from the House of Representatives, announcing the adoption of a remonstrance to the Congress of the United States, on the subject of the decision of the Supreme Court of the United States on the occupying claimant laws of Kentucky; which was taken up and read as follows, to wit:

IN THE HOUSE OF REPRESENTATIVES, JAN. 5, 1824.

The Legislature of Kentucky feels itself constrained to remonstrate against the principle proclaimed by the Supreme Court of the United States, at the last term of the court, in the case of Green &c. vs. Biddle. If it should be asked why the state of Kentucky interferes with the decision of that court, in a case in which she was not, and could not have been a party; the answer is, because that court has, in that case, most afflictively interfered with the great and essential rights of the state of Kentucky.

Kentucky was, as is known, before she became a state, a portion of Virginia, denominated the *district* of Kentucky. Preparatory to her erection into an independent state, she entered into a compact with Virginia. The compact bears date on the 18th day of December 1789, and consists of eight articles. The third article, (which provides "that all private rights and interests of land within the said district, *derived* from the *laws* of Virginia prior to such separation, shall remain valid and secure under the laws of the proposed state, and shall be determined by the laws now existing in this state;") has been interpreted by the court in that decision, to be a covenant on the part of Kentucky, not to enact any laws in relation to such of the lands within her limits, as had been appropriated under the laws of Virginia. A copy of the decision accompanies this remonstrance. A copy of a petition under the signatures of John Rowan and Henry Clay, presented by those gentlemen on the part of this state for a re-hearing, or rather for a re-consideration of the case, is also transmitted herewith. The petition was presented to the court at the term at which the decision was pronounced, and was (it is hoped) hastily overruled. From the two documents above referred to, an ample view of the case, the facts which belong to it, and the law which ought to govern it, may be had.

The petition employs a series of appropriate reasoning, which induces the legislature to adopt it as a part of this remonstrance. The legislature forbears to express in this remonstrance, the feelings of regret which the occasion of it inspires. The object of this effort is to avert the humiliation which that decision inflicts, not to anticipate it. While it is believed that the court, venerable and august as it is, labored under some unaccountable infatuation; impurity of motive is not imputed to it; yet the reference by the court to the *common law* of England as the law of Virginia, whence the rights to land in Kentucky were *derived*, and the inferential reasoning which they employed, led them to a result which disrobes Kentucky of her sovereign power, and places her in a posture of degradation which she never would have consented, and never can consent to occupy. That court has in that decision denied to the state of Kentucky the power of legislating, even *remedially*, in relation to the territory which she acknowledgedly possesses; territory over which neither the Congress nor any state in the Union can legislate; and subjected her to the code of laws, in relation both to right and remedy, which existed in Virginia at the date of the compact. The power of legislating, is unquestionably the most prominent of the powers which constitute the sovereignty of the states. It is the power which involves the representative principle, more intimately and essentially, than any other power claimed or possessed by the states of the Union; and the representative principle is vitally connected with civil lib-

erty, in any shape in which it can be supposed to exist. The legislative is the only power which distinguishes the sovereign from the vassal; a power without which no people can be free, even in contemplation. It is in relation to civil society, what the exercise of volition is, in relation to freedom of agency. The man whose will is not the rule of his action, is not a free agent; he is the slave of that person whose will controls him. When the control is absolute, he is an unqualified slave; when the control is limited, he is correspondently vassal. Precisely so with civil societies; they are free in the degree only in which they are governed by their own will, or in other words, by laws of their own enactment; and vassal, so far as they are governed by the will of others; and it must be matter of but little concern to them, whether the will imposed upon them as the rule of their property and their conduct, be displayed in enactments or in *edicts*; they are, in either case, alike deprived of self-government. And whether the governing power be exerted mediately and covertly, or immediately and openly, can make but little difference with a people accustomed to self-government, and possessing pride and intelligence enough to estimate and assert it. They will surrender it in neither case, without the apology of relentless and invincible necessity.

The people of every society must, from the nature and obvious destiny of man, depend upon the *soil* of the country which they inhabit for sustenance, for convenience and for social intercourse; they are consequently dependent upon the power that legislates over the soil; and if they do not possess the power of legislating over it, they are not, they cannot be said to be free; they must be dependent upon, and subject to the power that legislates over it. They cannot even condemn the land necessary for a road, or subject any portion of it to the erection of a mill, upon terms other than those which may be prescribed by an alien power.

The court, in the decision alluded to, have asserted that the district of Kentucky, in the compact which she formed with Virginia, in the view to become an independent state, renounced forever, by stipulation in the third article thereof, the right of self-government, and the independence at which she aimed; that is, they have so construed the *means* which were employed to produce the *end*, as not only to defeat the end, but produce a result which neither of the parties contemplated, and both deprecated; a result infinitely less desirable to the people of Kentucky, than the posture from which it was their avowed object in forming the compact, to escape. For if the district, instead of being erected into the state of Kentucky, had remained a part of Virginia, she would have retained a voice, and her proportional weight in the formation of those laws by which she would be governed. She would in that case have been a portion of a great, free and independent state; whereas, by the interpretation given to the third

article of the compact, she is left but nominally a state, with less than provincial powers; for if Kentucky were a province to Virginia or any other state, she might hope to obtain, by the fervor of her importunities, in the form of humble petition, from the mother state, some enactment suited to her condition, and calculated to protect honest labor from speculating rapacity. But the condition into which she has been construed by that decision, deprives her (if she cannot escape from it) of even that humiliating hope. Virginia cannot legislate for her; she cannot legislate for herself; nor can either, or any power on earth, enact or modify even a remedial law which relates to the soil, so as to suit the condition of Kentucky. The code of laws which existed in Virginia on the 18th of December, 1789, consisted of enactments made as the accruing circumstances and the varied condition of the people of that state required, through a long tract of time, from the colonization of the province of Virginia up to that period. Virginia was an old state, advanced in commerce, refinement and civilization; the district of Kentucky was comparatively a wilderness. The former bordered on the Atlantic, and enjoyed the intercommunication and society of states advanced like herself in commerce and the social polities. Kentucky was solitary and detached in her situation; she lay far west behind the Great Mountains, and had been the subject of legislation only so far as the lands which composed her territory could be made marketable by legislative cognizance. Her rising population had occupied the attention of the legislature of Virginia to a very limited extent. The remote situation of the district from the seat of the Virginia government; its need of laws suited to its condition; its destitution of them, and the impracticability of obtaining them suitably to her wants, as they were evolved by the peculiar circumstances and condition of the country, formed with the district a strong motive to become a state, and with Virginia to assent to it. The condition of Kentucky needed the exercise of the legislative power, within the latitudes which bounded her territory. She would not have needed the exercise of that power, if the code of Virginia had been adapted to her condition and circumstances; but that code had been suited to a different climate, and to a people of different habits, inclinations and pursuits. Yet the court has fastened upon the people of Kentucky, the *very code* which, on account of its inaptitude to their condition, they had intended by the compact to avoid, and have by their construction of that compact, denied them the *very faculty* with which it was the purpose of that instrument to invest them; the faculty of from time to time enacting laws for themselves, as their varied condition and their wants might indicate the necessity or expediency of doing so. In aspiring to the state posture, and in the formation of the compact as auxiliary to that object, Kentucky looked forward to that increas-

ed happiness and prosperity, which the people might expect from the exercise of the right of self-government. That right, subject only to the limitations imposed upon its exercise by the constitution of the United States, Kentucky never stipulated to relinquish; nor is it believed that a stipulation to that effect would have been valid. It is denied, that an express stipulation by a state to renounce the power of legislating over its territory, would be obligatory and valid. It is believed that the general scope and spirit of the Constitution of the United States, would restrain any state in the Union from such an act of disfranchisement. No state can, by compact or otherwise, become the province of another state; still less can any state, under the pretext of erecting a new one out of its territory, create a province in the form of a state, or stipulate that a state erected out of its territory, shall possess the form only, without the sovereign power of a state. And what the states could not do by express stipulation, the judiciary, it is contended, cannot do for them by construction. The construction of the court which thus disfranchises the state of Kentucky, can neither exact the homage of the people upon whom it acts, for the intellect employed in making it, nor conciliate their patience under its humiliating and afflicting effects. If the same privative effects were attempted to be produced upon the individual and political rights of the people of Kentucky by a foreign armed force, and they were not to repel it at every hazard, they would be denounced as a degenerate race, unworthy of their patriotic sires, who assisted in achieving the American Independence; as a people unworthy of enjoying the freedom they possessed. In that case the United States too, would be bound, at whatever hazard, to vindicate the right of the people of Kentucky to legislate over the territory of their state; to guarantee to them a republican *form of government*, which includes the right insisted on. And can it make any difference with the people of Kentucky, whether they are deprived of the right of regulating by law, the territory which they inhabit, and the soil which they cultivate, by the Duke de Angouleme at the head of a French army, or by the erroneous construction of three of the Judges of the Supreme Court of the United States? To them the privation of political and individual rights would be the same. In both instances they would have lost the power essential to freedom, to the right of self-government. In the former case their conscious humiliation would be less than in the latter, in proportion to the sturdiness of the resistance they would feel conscious of having made, and in proportion to the hope they might entertain, of emancipating themselves by some happy effort of valor, and thereby regaining their rights; but in the latter case the tyrant code, to which Kentucky is subjected by that decision, is inaccessible, perpetual, and incapable of being changed beneficially or suitably to the condition of Kentucky, by any power beneath the sun.

It cannot be denied, that the states, before the formation of the constitution of the United States, possessed the power of legislating over the territory within their limits. It cannot be asserted, that a surrender of that power was made in that instrument, by the former to the latter, or that any restraint upon the exercise of that power by the states, is to be found in that constitution. The 10th amendment to that instrument provides expressly, that "the powers not delegated (therein) to the United States, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

The provision in that constitution, for the formation of new states, and their admission into the Union, evidently contemplates their possession of those powers essential to sovereignty, which were retained by the old states.

That the states of the Union should be sovereign, and co-equally so, seems to be, not only contemplated, but enjoined by the constitution of the United States. In all their political franchises in relation to the government of the nation, they are most evidently so; and in all their political rights in relation to themselves, they cannot, if they were so inclined, be otherwise. The sovereign state power, is most evidently not an article which a state can, by compact or otherwise, either enhance or diminish.

The good of the *whole* requires equiponderance in the parts; and if that equilibrial power could be disturbed or destroyed by any one of the states, by paction with another, or otherwise, then would the *minor* control the *major*, and then would the chances against the perpetuity of the government of the United States, be as twenty-four to one. If these positions be true, and this reasoning be correct, it will be difficult to ascertain how the court could have arrived at the conclusion, that the district of Kentucky, in the view to become a sovereign state, stipulated with Virginia to renounce forever, that portion of sovereign power which was necessary for appropriate legislation over her territory, and without which, she could not exist as an independent state.

The laws which the court vacated in that decision were exacted from the Legislature of Kentucky, by the condition and circumstances of the country. They were, from the multiplicity of conflicting claims to the lands within the state, of vital interest to its prosperity and repose. They were demanded not less by justice than policy; they secured the honest but deluded occupant, who believed himself proprietor, because he had been the purchaser of the land which he occupied, from the loss of the labor of his life, in case of eviction by a paramount title, and they had the sanction of the example of Virginia. That state, when in a like situation, had passed laws upon which those of Kentucky were modelled. The laws enacted by Virginia, had performed their functions and expired long anterior to the erection of Kentucky into a state.

The occasion had ceased, and with it, the laws. Most of the states, particularly those in which the titles to land were dubious and perplexed, have had occasion for laws of the same character, and have enacted them. The condition of no state ever demanded more imperiously such legislative provisions, than that of Kentucky; in no state could their vacation inflict greater and more extensive injury upon the people, than in Kentucky. But the injury inflicted upon the people, great and extensive as it is, and much as it is deplored, weighs but comparatively little with these remonstrants. It is the *principle* which that decision establishes, at which they *shudder*, and with which they can never be reconciled.

The people of Kentucky, tutored in the school of adversity, can bear, and with patience too, the frowns of destiny, and all the adverse occurrences to which communities are liable; they can bear any thing but degradation and disfranchisement. They cannot bear to be construed out of their right of self-government; they value their freedom above every thing else, and are as little inclined to be *reasoned* out of it, as they would be to surrender it to *foreign force*.

These remonstrants are not unaware, that the states will sometimes err in the exercise of the legislative power; but they cannot concede that the exercise of that power should, on that account, be denied to them. Such a concession would strike at the root of the powers, believed to be necessary to the freedom and independence of the states. For to what body, upon that principle, could the legislative department of government be confided? Where shall we find that body of magistracy, which possesses the high prerogative of infallibility? If we explore the judicial department, it will be found, that even there, whence passion, the constant associate, and frequently the parent of error, is proscribed, the efforts to *correct*, are but little less frequent and strenuous than they were in the first instance to avoid error. Every body of magistracy, being necessarily composed of erratic materials, may be expected to err. Error, when committed in the exercise of its legitimate powers by the legislative body, must necessarily be left to that department for correction. It is the high prerogative of the Legislature, to correct whatever errors it may commit within the legitimate sphere of its action. It is only when it transcends, *obviously* and *palpably*, the limits assigned by the constitution to the exercise of its powers, that the judiciary can vacate its enactions. It is surely not competent for the court to invalidate a law, because it shall be thought by that tribunal to be unequal, impolitic or inexpedient in its provisions. The policy or expediency of a law, can be judged of by those alone, who are intimately acquainted with the class of subjects to which it relates, and the connection which exists between those subjects, and other subjects

of interest to the community; in short, with the complex concerns of the community. In this view the power of local legislation was retained by the states; but it was retained to but little purpose, if a central tribunal is to pass upon the laws enacted by the states. The power of legislation must be confided somewhere. It is of the essence of freedom, that it should be exerted by those who are the subjects of the law; that the people who compose the society, should enact the laws which the society needs. The possession or destitution of that power, constitutes the *mighty difference* which exists between *freedom* and *slavery*. Kentucky claims to possess the power of legislating for itself; the decision denies her that power in relation to the most important subjects of its exercise, in relation to her own territory. The decision was given by three, a minority of the judges who compose that tribunal. There was a fourth judge on the bench; he dissented. Had the third agreed with the fourth, Kentucky had not been disfranchised; so that in that particular case, the political destiny of a state, was decided by a solitary judge. Can this appeal to the Congress, by the state of Kentucky, upon a subject in which she is so vitally interested, be unavailing? And has not the state a right to expect, that her co-equal sovereignty with the other states of the Union, will be guaranteed to her by that body? Has she not a right to expect that the Congress will, either by passing a law requiring, when any question shall come before that tribunal involving the validity of a law of any of the states, that a concurrence of at least *two thirds* of all the judges shall be necessary to its vacation, or increasing the number of the judges, and thereby multiplying the chances of the states to escape the like calamities, and of this state to escape from its present thralldom, by exacting the exercise of more deliberation, and an increased volume of intellect, upon all such questions? These remonstrants would not presume to dictate to the Congress of the United States, the mode to be pursued by that body, for the extrication of this state from the unhappy posture in which it has been placed by the decision of that court. They have confidence in the wisdom and virtue of the body they address; they have an invincible consciousness of their rights, and they entertain no doubt, but that the Congress will vindicate them in a manner honorable to itself and satisfactory to Kentucky.

Resolved by the General Assembly of the Commonwealth of Kentucky, That a copy of the foregoing remonstrance be transmitted by the Governor to each of our members in the House of Representatives and the Senate of Congress, with the request that they severally use their best exertions to produce the result at which it aims.

Mr. C. Allan moved to postpone the consideration of said remonstrance for the present; and the question being taken thereon, it was resolved in the negative—Yeas 14, nays 17.

The yeas and nays being required thereon by Messrs. Williams and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Bowman, Cowan, Davidson, Faulkner, Hickman, Howard, Marshall, Smith, Towles, J. Ward, White, Wickliff and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Duncan, Ewing, Forsythe, Lyon, M'Afee, Mayo, Miller, Owens, Rudd, T. Ward and Worthington.

Mr. C. Allan then moved the following resolution as a substitute for the remonstrance and resolution:

Resolved by the General Assembly of the Commonwealth of Kentucky, That our Senators in Congress be instructed, and our Representatives requested to use their best exertions to have a law passed by Congress, to require a concurrence of two-thirds of all the Judges of the Supreme Court, to decide the law of any State unconstitutional.

And the question being taken thereon, it was resolved in the negative—Yeas 12, nays 19.

The yeas and nays being required thereon by Messrs. C. Allan and Hickman, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Bowman, Cowan, Davidson, Faulkner, Hickman, Howard, Towles, J. Ward, White, Wickliff and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Duncan, Ewing, Forsythe, Lyon, M'Afee, Marshall, Mayo, Miller, Owens, Rudd, Smith, T. Ward and Worthington.

Mr. C. Allan then moved to amend the resolution, so as to read, that the members of the House of Representatives in Congress be requested, and Senators instructed, &c.; and the question being taken thereon, it was resolved in the negative—Yeas 8, nays 23.

The yeas and nays being required thereon by Messrs. C. Allan and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Hickman, Howard, Lyon, Mayo, White, Wickliff and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Bowman, Carneal, Cowan, Davidson, Duncan, Ewing, Faulkner, Forsythe, M'Afee, Marshall, Miller, Owens, Rudd, Smith, Towles, J. Ward, T. Ward and Worthington.

The question was then taken on the adoption of the remonstrance and resolution, and it was resolved in the affirmative—Yeas 18, nays 13.

The yeas and nays being required thereon by Messrs. Marshall and Howard, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Carneal, Duncan, Ewing, Forsythe, Lyon, M'Affee, Mayo, Miller, Owens, Rudd, Smith, T. Ward and Worthington.

Those who voted in the negative, are, Messrs. C. Allan, Bowman, Cowan, Davidson, Faulkner, Hickman, Howard, Marshall, Towles, J. Ward, White, Wickliff and Williams.

Ordered, That Mr. C. H. Allen inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing the adoption of resolutions approbatory of the course of the President of the United States in relation to the struggles of the Greeks and South Americans for freedom, and in relation to the administration of the general government: That they had concurred in the amendment made by the Senate, upon concurring in those made by the House of Representatives, to a bill entitled "an act to carry into operation the Lunatic Asylum;" and that they insisted on their amendment to the bill entitled "an act for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes." Also, that they requested a conference upon the disagreement in relation to the amendment to the latter bill.

Resolved, That the Senate consent to said conference, and that Messrs. Ewing, Marshall, M'Affee and Carneal be appointed a committee on the part of the Senate.

The Senate received, by the Secretary of State, a written message from the Governor; and the rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent, Alfred Metcalfe, colonel of the 114th regiment, lately formed.

Thomas Alexander, lieutenant colonel of the same regiment.

Jonathan Crouch, major of the same regiment.

Starke Fielder, major of the 13th regiment, vice Thomas Alexander, stricken off into another regiment.

JOHN ADAIR.

January 5, 1824.

Resolved, That the Senate advise and consent to said appointments, and that Messrs. Rudd and Mayo inform the Governor thereof.

The Senate received a message from the House of Representatives, announcing their concurrence in the amendments made by the Senate, to bills and a resolution of the following titles, to wit: An act for the divorce of Nancy Eastland and Sally Chisney; an act for the benefit of William Littell; an act concerning the Peni-

tentiary; an act to improve the navigation of Big Sandy river; an act to establish election precincts in the counties of Floyd, Henry and Mason; an act concerning the Penitentiary, and a resolution appointing commissioners to examine and report the state of the Penitentiary; and that they had receded from their amendments to a bill entitled "an act to alter the time of holding certain circuit courts."

Mr. Owens moved to take up the report of the select committee on the petition of David Logan, for the purpose of spreading it on the Journal; but it was resolved in the negative.

And then the Senate adjourned.

TUESDAY, JANUARY 6, 1824.

The Senate assembled.

The Senate received a message from the House of Representatives, announcing the passage of the following bills from the Senate, to wit: An act to amend the several acts concerning the town of Cynthiana; an act for the benefit of the Lexington Presbyterian Congregation; an act for the benefit of the executors of John B. Wooldridge; an act to incorporate the Republican Circulating Library Company; an act for the relief of certain aliens; an act for the benefit of Joshua Barbee and the devisees of John Barbee, deceased, and an act to amend an act entitled an act to abolish imprisonment for debt and subject equitable interests to execution.

Resolutions from the House of Representatives, approbatory of the course of the President of the United States in relation to the struggles of the Greeks and South Americans for freedom, and in relation to the administration of the general government, were taken up and committed to Messrs. Marshall, Blackburn, M'Afee and Flournoy.

On the motion of Mr. T. Ward, leave was given him to report a bill to alter the time of holding certain circuit and county courts, which was read the first time; and the rule being dispensed with, it was read a second and third times, (having been engrossed.)

Resolved, That the said bill do pass, and that the title be, "an act to alter the time of holding certain circuit and county courts."

Ordered, That Mr. T. Ward inform the House of Representatives thereof, and request their concurrence.

A bill from the House of Representatives, entitled "an act to repeal the act concerning champerty and maintenance, passed on the 22d December 1798," together with the amendments, was taken up.

Mr. C. Allan moved to re-consider the vote taken on yesterday, whereby the amendment concerning occupying claimants was

adopted; and the question being taken thereon, it was resolved in the negative—Yeas 8, nays 22.

The yeas and nays being required thereon by Messrs. Carneal and T. Ward, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Carneal, Cowan, Dawson, Faulkner, Flournoy, Howard and Towles.

Those who voted in the negative, are, Messrs. C. H. Allen, Barbee, Barrett, Beauchamp, Blackburn, Duncan, Ewing, Forsythe, Hickman, Lyon, M'Affee, Marshall, Mayo, Miller, Owens, Roper, Rudd, Smith, J. Ward, White, Wickliff and Williams.

The bill was then further amended at the Clerk's table, and read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 26, nays 7.

The yeas and nays being required thereon by Messrs. Flournoy and Faulkner, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Blackburn, Carneal, Cowan, Duncan, Ewing, Forsythe, Hickman, Lyon, M'Affee, Marshall, Mayo, Miller, Owens, Roper, Rudd, Smith, J. Ward, T. Ward, White, Wickliff and Williams.

Those who voted in the negative, are, Messrs. C. Allan, Bowman, Davidson, Faulkner, Flournoy, Howard and Towles.

Resolved, That the said bill, as amended, do pass, and that the title be, "an act to revive and amend the champerty and maintenance laws, and more effectually to secure the *bona fide* occupants of land within this Commonwealth."

Ordered, That Mr. Carneal inform the House of Representatives thereof.

The Senate received information, by the Secretary of State, that the Governor did, on the 5th inst. approve and sign enrolled bills, which originated in the Senate, of the following titles, viz. An act to repeal the law authorising the establishment of a State Road from Frankfort to Bowlinggreen; an act to change the time of holding the circuit and county courts of Calloway county, and an act for the benefit of Lydia Smith.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice have, according to order, had under consideration bills from the House of Representatives of the following titles, to wit: An act to provide for the sale of so much of the real estate of William M'Dowell and William S. M'Dowell, deceased, as may be necessary to pay their debts, and an act for the benefit of Frederick Ridgley, and for other purposes; and have come to the following resolution thereupon, to wit:

Resolved, That the said bills *ought not to pass*.

Which was twice read and concurred in.

The question being taken on reading the said bills a third time, it was resolved in the negative; and so the said bills were rejected.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined enrolled bills and a resolution of the following titles, to wit: An act for the benefit of Alexander Guffey; an act appointing commissioners for the protection of the navigation of Big Barren river; an act providing for opening a road from Franklin to Owenborough on the Ohio; an act to extend the term of the Green circuit court; an act for the benefit of George Corn and Samuel Foster; an act for the benefit of the widow and heirs of James Dunbar, deceased; an act altering the mode of distributing the Acts, Journals and Reports; an act to prevent the masters of vessels and others from employing or removing persons of colour from this State; an act for the benefit of Danuel Trabue and others; an act allowing an additional term to the county court of Hardin; an act to establish a Botanical Garden; an act to authorise the executors of Brumfield Long to convey certain lands; an act for the benefit of Joseph Cummins and others; an act to amend the act incorporating the Centre College of Kentucky at Danville; an act for the benefit of Robert C. Slaughter; an act for the benefit of Thomas Rutledge; an act for the divorce of Nancy Eastland, Sally Chisney and Peyton Chapman; an act for the benefit of William Littell; an act to amend an act entitled an act to enlarge the Penitentiary, and to provide for the more speedy sale of the articles manufactured in that institution, approved December 10th, 1822; an act for the benefit of Robert Davis; an act to amend an act entitled an act for the benefit of religious societies in this commonwealth, approved February 1st, 1814; an act to amend an act entitled an act to open a road from Mountsterling to the Virginia line, by the way of Prestonsburg, and for other purposes; an act for the benefit of the sheriffs of Jessamine and Lincoln, and a resolution requiring the Keeper of the Penitentiary to furnish the convicts with Testaments; and had found the same truly enrolled.

The Senate received a message from the House of Representatives announcing that their Speaker had signed said bills and resolution.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee reported that they had performed that duty.

Mr. C. Allan, from the joint committee appointed to examine and report the state of the Transylvania University, made the following report, to wit:

The joint committee appointed to examine the state and condition of Transylvania University, have discharged the duty assigned them, and beg leave respectfully to submit the following report:

That upon their arrival at Lexington, they took the earliest opportunity of addressing to the Chairman and Board of Trustees of the University, a letter, advising them of the objects contemplated by your committee, and requesting from them a written communication upon the various points of inquiry embraced by the resolution under which they were constituted, a copy of which letter (marked A.) is herewith submitted as a part of this report. In answer thereto, your committee received two reports, one of which is hereunto annexed, marked B; the other, accompanied by the books and papers of the Trustees, was presented as an *expose* of the financial concerns of the institution. An attentive examination of these documents justified your committee in believing that the treasurer and clerk had, for many years past, kept their accounts with little regard to method or regularity. Upon intimating that this report was unsatisfactory, and not sustained, in many particulars, by proper vouchers, it was, at the request of the Trustees, returned, upon their giving your committee an assurance, that they would, in a few days, present *another*, with the necessary evidences, arranged, as far as practicable, in a systematic manner. In the effectuation of this object, more time was required than had been anticipated, and your committee did not receive the promised report and exhibits, until Saturday evening last. This fact, they trust, will excuse them for deferring their report to this late period of the session.

In connexion with the communication just mentioned, the Trustees have forwarded all the papers appertaining to their pecuniary transactions since the year 1818, which constitute so large a mass, as to preclude a complete examination at this time. Your committee have bestowed as much attention upon them as circumstances would permit, and perceive that the Trustees have used great diligence, and succeeded to a considerable extent, in marshalling and arranging their accounts and vouchers. They are, nevertheless, compelled to state, that the treasury department has not received that consideration which its importance demands. They were informed, and believe, that this subject has recently claimed the attention of the Trustees, and that their accounts are now carefully and methodically kept. This report, together with a list of vouchers showing the expenditures on the public buildings, is herewith presented, marked E. and F.

It was represented by the Board of Trustees, that considerable sums of money had been expended in providing buildings and procuring furniture for the establishment of a *Refectory*. The practice of Eastern Colleges, in relation to departments of this kind,

justified the belief, that it might be made subservient to the best interests of the University. A very short experience, however, convinced them, that, whatever may have been their advantages in other institutions of learning, the one in Transylvania was not only in a great degree useless, but absolutely injurious. It has, therefore, been discontinued, and the buildings destined for that purpose have been converted into a dwelling for the President. Your committee will not hazard an opinion as to the policy or propriety of such establishments. Under proper regulations, they may be productive of much good. Such, they are informed, has been their effect elsewhere. They cannot but express their regret, that after the appropriation of so much money upon an object of this kind, it should have been abandoned, without giving to the plan a more mature and satisfactory experiment. It is, notwithstanding, due to the Trustees, to observe, that the reasons assigned by them go very far to vindicate the expediency of its continuance.

While upon this subject, it may not be improper to remark, that in the discharge of the high and important duties confided to them, the Trustees have, as far as your committee could judge, been actuated by a desire to promote the welfare and advancement of the University. Its numerous and complicated concerns impose a serious tax upon their time and attention, for which they derive no compensation, save the proud consciousness of endeavoring to promote the cause of science.

Your committee visited and examined every department of the University. They inspected, particularly, the condition and extent of the public Libraries, with the rules adopted for their government, and were much pleased to find them in excellent order, and subject to judicious regulations.

The great amount of money expended in the erection of the University and its appendant buildings, calls for the exercise of the most unremitting vigilance, to preserve them from destruction by fire, or premature decay. Their preservation is particularly entrusted to the President, who, in consequence of his convenient residence, is enabled to bestow the requisite attention.

On account of the number of students in the Medical Department, it has been found impracticable to afford the Professors in that branch, suitable rooms for lecturing, in the College edifice. They have procured and caused to be fitted up, in town, apartments for that purpose, which, although large, are insufficient, at this time, for the comfortable accommodation of the students, and inadequate to a satisfactory exhibition of those experiments which are the most interesting and profitable part of medical instruction. These inconveniences, it is to be hoped, will, ere long, be removed, by the construction of an appropriate building to be exclusively devoted to that department.

Your committee also attended, and were highly gratified at witnessing various specimens of examination and declamation in the several departments of the University, and can say, with great freedom, that the result was not less creditable to the professors, than honorable and praiseworthy to the students.

In dismissing this branch of the subject, your committee would respectfully suggest, that, in their opinion, a small reduction in the price of tuition might be made, without doing injustice to the professors or injury to the institution. They are aware, that the present depreciated state of our currency, forms an imposing argument against such a change at this time. But in contrasting the salaries received by some of the professors in the academical and medical departments, with those allowed to the highest officers of the State government, they are constrained to believe that a moderate diminution of the former, while it would still afford a just and liberal compensation to industry and talent, would augment the popularity of the institution, and enlarge the sphere of its usefulness. The great objection urged against Transylvania University, in the middle and more humble ranks of society, is, that it dispenses its blessings to the rich alone. To give public and general satisfaction, by rendering its benefits, as far as practicable, accessible to all, should be an object of peculiar and primary importance in the administration of a State University.

The report B. communicated by the President, contains a general and comprehensive view of the condition of the institution, the number of students, the professors in the different departments, the various branches of education taught, and the fees of tuition. The prosperous state of the University, as developed by this report, must be highly gratifying to every friend of learning. Containing even now, 392 students, 140 of whom are from other States, it is disseminating knowledge, diffusing a flood of intellectual light from its literary and scientific departments, not only over Kentucky, but over the whole western country. The existence of a government like ours, is essentially dependent on the virtue and intelligence of the people. Kentucky should, therefore, never be illiberal in her patronage, or remiss in her attention to the interests of an institution so extensively influential in forming the minds and the morals of her citizens. Those who preside directly over its operations, from the consideration that it will inevitably decline and fall when unsupported by public opinion and public friendship, should pretermitt no exertion to bestow upon the students useful and sound instruction, suppressing whatever may be calculated to lower it in the estimation of the people, and observing and enforcing, on the great subject of religion, a prudent silence and neutrality in regard to all sectarian doctrines. We should feel disposed to protect and cherish this interesting institution, in which the youth of our own, already associate with

those of thirteen of our sister States, as well from the wise and elevated motive of multiplying facilities for the advancement of knowledge, as from a regard to our pecuniary interests. Without the means of acquiring information here combined, the young men of our own State would necessarily expend large sums of money in foreign Universities. This is saved to us, and in addition to it, a very considerable amount is annually left with us by students from other States. If this institution shall be wisely and prudently conducted, it may, at no distant period, stand in fearless competition with any in the Union.

But while your committee express their approbation of the general regulations prevailing in the University, they feel themselves constrained by a sense of duty, to notice a practice recently adopted, which, it is believed, will be extremely injurious in its tendency. They allude to the practice of delivering private lectures, for profit, independent of that which is received for public instruction. One professor in the academical, and several in the medical department, have private classes. Your committee object to this practice, for several reasons. It will create invidious distinctions between those students who take private tickets, and those who refuse or are unable to purchase them. To the latter, it must be particularly unpleasant and depressing. The interest of the professors should be identified with that of the institution. But this practice must give rise to a separate interest, which may, in its consequences, be unfriendly to the prosperity of the University. Without intending any allusion to, or reflection upon the eminent gentlemen who at present fill, with much ability, the several professorships, may we not, judging from the nature of man, presume that the public professor, who establishes a private class, will acquire a partiality for such students as purchase admission into it, in preference to those who refuse? And may not this partiality ultimately manifest itself in the distribution of public honors? The practice will at least give rise to a suspicion of partiality among the students, which alone will be very prejudicial. The professor owes all his talents and all his acquirements to his public classes. He is under obligations to communicate to them all the instruction of which he is capable. Private lectures, in an institution of this kind, cannot be very beneficial; for if the professors discharge their public duties with fidelity, they will suggest as many ideas, impart as much information, as the minds of their pupils can possibly retain and mature in their hours of seclusion. It is, therefore, seriously apprehended, that a practice which unnecessarily enhances the price of tuition, and generates dissatisfaction and division among the students, will, if persisted in, be productive of unhappy results. Your committee indulge the hope, that the professors themselves, upon a calm and disinterested review of the subject, will feel disposed to abandon a practice which

cannot elevate, but may depress the fortunes of an institution, in sustaining and promoting which, all should entertain the fondest solicitude.

Your committee will conclude this report, by recommending the adoption of the following resolution:

Resolved by the General Assembly of the Commonwealth of Kentucky, That the Trustees of Transylvania University be required to prohibit lecturing to private classes, on the part of the professors, for gain, in such way as not to violate any existing engagements.

From the Senate,

CHILTON ALLAN,
JAMES WARD,
YOUNG EWING.

From the House of Representatives,

GABRIEL SLAUGHTER,
C. M. CUNNINGHAM,
JOHN M. M'CONNELL,
EDWARD RUMSEY,
R. B. NEW.

N. B. The documents referred to, accompany the report to the House of Representatives.

Mr. Ewing, from the committee of propositions and grievances, made the following report, to wit:

The committee of propositions and grievances have, according to order, had under consideration a bill from the House of Representatives, to them referred, entitled "an act to establish the county of Spencer," and have come to the following resolution thereupon, to wit:

Resolved, That the said bill *ought to pass.*

Which resolution being amended to read, that the bill *ought not to pass*, was concurred in.

The question being taken on reading the said bill a third time, it was resolved in the negative; and so the said bill was rejected.

Ordered, That Mr. Roper inform the House of Representatives thereof.

A bill from the House of Representatives, entitled "an act to regulate certain conveyances," was read a third time as follows, to wit:

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That when a sale of any real estate shall be made within this Commonwealth, by any sheriff or other officer, by virtue of any execution issued upon a judgment or decree, or by any commissioner or other person appointed by court, and the same shall be made contrary to the provisions of an act entitled "an act to amend an act entitled an act to regulate endorsements on execu-

tions," approved December twenty-first, one thousand eight hundred and twenty-one, such sale shall be, and the same is hereby declared null and void.

§ 2. *Be it further enacted*, That when a sale of any real estate shall be made by any officer or commissioner, under authority of any execution, decree or order as aforesaid, the deed of conveyance to the purchaser shall recite, that such execution, order or decree, was or was not, as the case may be, endorsed for notes upon the Bank of Kentucky and its branches, and notes upon the Bank of the Commonwealth of Kentucky and its branches; and if not so endorsed, it shall be further recited, that the real estate so sold, was appraised by the commissioners appointed for that purpose by the county court of the county in which such real estate is situated, and that said real estate was sold for three fourths of the value put thereon in the said appraisement. And any sale or conveyance made contrary to the provisions of this act, shall pass no estate to the purchaser or grantee, but shall be void; and such conveyance shall not be admitted to record in the office of the clerk of any court in this Commonwealth.

§ 3. *Be it further enacted*, That if any clerk in this Commonwealth shall admit to record in his office any such deed of conveyance, not conforming to the provisions of this act, he shall be subject to a fine of five hundred dollars, recoverable by action of debt in the name and for the use of the Commonwealth of Kentucky, in any circuit court having jurisdiction thereof, and shall moreover be liable in damages to the party injured thereby.

§ 4. *Be it further enacted*, That in case of the violation of the provisions of this act by any clerk, upon information thereof, it shall be the duty of the attorney for the commonwealth to prosecute for the aforesaid fine: *Provided, however*, That this act shall not be construed to extend to the cases provided for by an act, entitled "an act to abolish imprisonment for debt and subject equitable interests to execution," approved December 17th, 1821, and an act, entitled "an act to amend an act entitled an act regulating endorsements on executions," approved December 7th, 1822: *And provided also*, that this act shall not be construed to extend to an execution issued upon judgments obtained against sheriffs, attorneys at law, or other officer, for money or bank notes collected by such sheriff, attorney or other officer in their official capacity,

And the question being taken on the passage thereof, it was resolved in the negative—Yeas 14, nays 16.

The yeas and nays being required thereon by Messrs. Williams and Miller, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Barrett, Beauchamp, Duncan, Ewing, Forsythe, M'Affee, Mayo, Miller, Owens, Rudd and T. Ward.

Those who voted in the negative, are, Messrs. C. Allan, Blackburn, Bowman, Cowan, Davidson, Faulkner, Flournoy, Hickman, Howard, Marshall, Roper, Smith, Towles, J. Ward, White and Williams.

And so the said bill was rejected.

Ordered, That Mr. Roper inform the House of Representatives thereof.

Bills from the House of Representatives of the following titles, to wit: An act for the benefit of Robert Hunter, deceased, and an act for the benefit of the heirs of Richard Cocke and Mary Cocke, deceased, were read the first time.

The question being taken on reading the former bill a second time, it was resolved in the negative; and so the said bill was rejected.

The rule being dispensed with, the latter bill was read a second and third times.

Resolved, That the said bill do pass, and that Mr. Roper inform the House of Representatives thereof.

The Senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Barbee in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Barbee reported, that the committee had, according to order, had under consideration a bill from the House of Representatives entitled "an act to apply the net profits of the Bank of the Commonwealth for the year 1824, in aid of the public revenue," and had gone through the same with an amendment in lieu of the bill, which he handed in at the Clerk's table.

The amendment was then read as follows, to wit:

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the sum of dollars be, and the same is hereby appropriated; out of the State's stock in the Bank of Kentucky, for the purpose of public revenue.

§ 2. *Be it further enacted*, That the President and Directors of the Bank of Kentucky be, and they are hereby authorised to pay to the Treasurer of the State, taking his receipt therefor, the said sum of dollars in notes on the Bank of the Commonwealth of Kentucky; for which sum the Bank of Kentucky shall have a credit, at the rate of eighty dollars per share, for so much of the State's stock in said bank, the State reserving the residuary interest of twenty per cent. upon each share of the stock thus paid over, until the concerns of said bank are closed.

And the question being taken on the adoption thereof, it was resolved in the affirmative—Yeas 24, nays 7.

The yeas and nays being required thereon by Messrs. Beauchamp and Williams, were as follows, to wit:

Those who voted in the affirmative, are Messrs. C. Allan, Barbee, Barrett, Beauchamp, Blackburn, Bowman, Carneal, Cowan, Davidson, Duncan, Ewing, Faulkner, Forsythe, M'Affee, Marshall, Miller, Roper, Rudd, Smith, Towles, J. Ward, T. Ward, White and Wickliff.

Those who voted in the negative, are Messrs. C. H. Allen, Ballinger, Hickman, Lyon, Mayo, Owens and Williams.

The bill was then read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 24, nays 7.

The yeas and nays being required thereon by Messrs. C. H. Allen and Smith, were as follows, to wit:

Those who voted in the affirmative, are Messrs. C. Allan, Barbee, Barrett, Beauchamp, Blackburn, Bowman, Carneal, Cowan, Davidson, Duncan, Ewing, Faulkner, Forsythe, M'Affee, Marshall, Miller, Roper, Rudd, Smith, Towles, J. Ward, T. Ward, White and Wickliff.

Those who voted in the negative, are Messrs. C. H. Allen, Ballinger, Hickman, Lyon, Mayo, Owens and Williams.

Resolved, That the said bill, as amended, do pass, and that the title be, "an act authorising a surrender of a part of the State's stock in the Bank of Kentucky."

Ordered, That Mr. Williams inform the House of Representatives thereof.

And then the Senate adjourned.

WEDNESDAY, JANUARY 7, 1824.

The Senate assembled.

The following bills were reported, to wit:

By Mr. Blackburn—A bill to legalize the proceedings of the Woodford county court at their January term 1824.

By Mr. Owens—A bill for the benefit of certain seminaries.

And by Mr. C. H. Allen—A bill supplemental to an act establishing the county of Oldham.

Which were severally read the first time and ordered to be read a second time; and the rule being dispensed with, the two former bills were read a second and third times, (having been engrossed.)

Resolved, That the said bills do pass, and that the titles be, respectively, "an act to legalize the proceedings of the Woodford county court at their January term 1824," and "an act for the benefit of certain seminaries."

Ordered, That Mr. Blackburn inform the House of Representatives thereof, and request their concurrence.

Mr. Marshall, from the select committee to whom were referred resolutions from the House of Representatives, approbatory of the

course pursued by the President of the United States in relation to the struggles of the Greeks and South Americans for freedom, and in relation to the administration of the general government, reported the same with amendments, which were concurred in, and the resolutions unanimously adopted.

Ordered, That Mr. M'Affee inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing the passage of bills from the Senate of the following titles, to wit: An act to increase the allowance to indigent pupils in the Asylum for the education of the Deaf and Dumb; an act to lay off the State into Electoral Districts; an act to alter the time of holding certain circuit and county courts; an act to repeal all laws allowing a replevin of two years on contracts entered into after the first day of June next; an act to legalize the proceedings of the Woodford county court at their January term 1824; an act declaring Dick's river navigable; an act to establish the town of Mayfield, in Graves county, and to provide for the sale of the lots; an act to change the venue in the case of John Williams; an act further to regulate the town of Christiansburg, and for other purposes; an act for the benefit of Robert Kinkaid; an act for the benefit of the heirs of David Davidson, deceased; an act for the benefit of sheriffs; an act to add a part of the county of Floyd to the county of Morgan, and for other purposes; an act for the benefit of Nancy Cravens; an act to change the terms of the Woodford circuit court; an act for the benefit of John Anderson; an act authorising certain county courts to hold additional terms, and an act to authorise the clerk of Hickman county court to transcribe certain records.

The Senate received a message from the House of Representatives, announcing that they had concurred in the amendments made by the Senate to a bill entitled "an act to repeal the act concerning champerty and maintenance, passed on the 22d day of December 1793," with amendments; and that they had disagreed to the amendment made to a bill entitled "an act to apply the net profits of the Bank of the Commonwealth for the year 1824, in aid of the public revenue."

The amendments proposed by the House of Representatives to the former bill, were read and concurred in.

Resolved, That the Senate insist on their amendment to the latter bill.

Ordered, That Mr. Carneal inform the House of Representatives thereof.

The vote whereby a bill entitled "an act concerning the Directors of the Bank of Kentucky," together with the amendment made thereto by the House of Representatives, was laid on the table, was re-considered.

Resolved, That the Senate recede from their disagreement to the amendment, with amendments.

Ordered, That Mr. Carneal inform the House of Representatives thereof.

Mr. Ewing, from the committee of conference on the disagreement of the two Houses on the amendments to the bill for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes, made a report, which was concurred in.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

The Senate received, by the Secretary of State, a written message from the Governor; and the rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent, James Quiett, brigadier general of the 15th brigade, vice Thomas Fletcher, promoted.

Benjamin T. Thornton, colonel of the 47th regiment, vice James Quiett, promoted.

William Hamilton, lieutenant colonel of the same regiment, vice Benjamin T. Thornton, promoted.

Thomas Johns, colonel of the 98th regiment, vice Francis A. Brown, resigned.

James Vanhooze, lieutenant colonel of the same regiment, vice William Reany, resigned.

George Martin, major of the same regiment, vice Thomas Johns, promoted.

Lewis Powers, colonel of the 115th regiment, lately formed.

Henley M'Kinzey, lieutenant colonel of the same regiment.

Joseph Haund, major of the same regiment.

I also nominate James Clinton, keeper of the gate on the turnpike and wilderness road, for the present year.

JOHN ADAIR.

January 7th, 1824.

Resolved, That the Senate advise and consent to said appointments, and that Messrs. T. Ward and Williams inform the Governor thereof.

The following bills were reported, to wit:

By Mr. Denny—A bill supplemental to the act fixing the ratio and apportioning the representation for the ensuing four years.

And by Mr. Towles—A bill for the benefit of Thomas K. Peebles.

Which were severally read the first time and ordered to be read a second time; and the rule being dispensed with, the former bill was read a second and third times, (having been engrossed.)

Resolved, That the former bill do pass, and that the title be, "an act supplemental to an act fixing the ratio and apportioning the representation for the ensuing four years."

Ordered, That Mr. Denny inform the House of Representatives thereof, and request their concurrence.

Mr. Williams moved to lay the latter bill on the table until the first day of June next; and the question being taken thereon, it was resolved in the negative—Yeas 13, nays 14.

The yeas and nays being required thereon by Messrs. Williams and T. Ward, were as follows, to wit:

Those who voted in the affirmative, are Messrs. C. Allan, C. H. Allen, Barrett, Beauchamp, Davidson, Faulkner, Flournoy, Hickman, Miller, Owens, Smith, J. Ward and Williams.

Those who voted in the negative, are Messrs. Ballinger, Blackburn, Carneal, Duncan, Ewing, Forsythe, Howard, Lyon, M'Afee, Marshall, Towles, T. Ward, White and Wickliff.

On motion,

Resolved, That a message be sent to the House of Representatives, requesting leave to withdraw the report of the rejection of the bill to establish the county of Spencer.

And the bill being returned, Mr. Wickliff moved to amend the resolution, to read, that the bill ought *not* to pass; and the question being taken thereon, it was resolved in the negative—Yeas 4, nays 17.

The yeas and nays being required thereon by Messrs. Wickliff and Blackburn, were as follows, to wit:

Those who voted in the affirmative, are Messrs. Hickman, Marshall, White and Wickliffe.

Those who voted in the negative, are Messrs. C. Allan, C. H. Allen, Barrett, Beauchamp, Blackburn, Carneal, Cowan, Davidson, Denny, Ewing, Faulkner, Howard, M'Afee, Mayo, Owens, T. Ward and Williams.

The bill was then read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 17, nays 9.

The yeas and nays being required thereon by Messrs. Wickliff and Williams, were as follows, to wit:

Those who voted in the affirmative, are Messrs. C. H. Allen, Beauchamp, Blackburn, Carneal, Cowan, Davidson, Denny, Ewing, Faulkner, Howard, Lyon, M'Afee, Mayo, Miller, Owens, T. Ward and Williams.

Those who voted in the negative, are Messrs. Barrett, Duncan, Flournoy, Hickman, Marshall, Smith, Towles, White and Wickliff.

Resolved, That the said bill do pass, and that Mr. Williams inform the House of Representatives thereof.

The Senate took up the bill from the House of Representatives, entitled "an act to apply the net profits of the Bank of the Commonwealth for the year 1824, in aid of the public revenue," together with the amendment of the Senate.

Resolved, That the Senate insist on their amendment.

Ordered, That Mr. C. Allan inform the House of Representatives thereof.

The following bills were reported, to wit:

By Mr. Marshall—A bill for the benefit of the Sergeant of the Court of Appeals.

And by Mr. Wickliff—A bill supplemental to an act establishing the county of Spencer.

Which were severally read the first time; and the rule being dispensed with, they were read a second and third times, (having been engrossed.)

Resolved, That the said bills do pass, and that the titles be as aforesaid.

Ordered, That Mr. Wickliff inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing that they had agreed to the report of the committee of conference on the bill for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes: That they had concurred in the amendments proposed by the Senate to resolutions approbatory of the course pursued by the President of the United States in relation to the struggles of the Greeks and South Americans for freedom, and in relation to the administration of the general government; and that they had passed a bill from the Senate, entitled "an act concerning the Bank of Kentucky and Bank of the Commonwealth," with an amendment.

The amendment to the latter bill was taken up; and the question being taken upon concurring therein, it was resolved in the affirmative—Yeas 22, nays 8.

The yeas and nays being required thereon by Messrs. Beauchamp and Bowman, were as follows, to wit:

Those who voted in the affirmative, are Messrs. C. Allan, C. H. Allen, Ballinger, Barbee, Barrett, Blackburn, Bowman, Carneal, Cowan, Davidson, Duncan, Ewing, Faulkner, Flournoy, Forsythe, Hickman, Howard, M'Affee, Marshall, Miller, Smith and White.

Those who voted in the negative, are Messrs. Beauchamp, Denny, Lyon, Mayo, Owens, Towles, T. Ward and Wickliff.

Ordered, That Mr. Blackburn inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing that they had passed bills of the following titles, to wit: An act for the divorce of Aaron Earnest and Elizabeth

Noel, and an act for the appropriation of money; and that they insisted on their disagreement to the amendment made by the Senate to a bill entitled "an act to apply the net profits of the Bank of the Commonwealth for the year 1824, in aid of the public revenue;" and asked a conference on the disagreement on the latter subject.

Resolved, That the Senate consent to said conference, and that Messrs. C. Allan, Ewing, Barbee and Marshall be appointed a committee on the part of the Senate.

The said bills were severally read the first time; and the rule being dispensed with, they were read a second time, and the first a third time, (having been amended at the Clerk's table.)

Resolved, That the first bill do pass, and that the title be, "an act for the divorce of Aaron Earnest, Elizabeth Noel and William Thompson."

Ordered, That Mr. Smith inform the House of Representatives thereof.

The latter bill was committed to a committee of the whole house on the state of the commonwealth.

Whereupon the Senate, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Faulkner in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Faulkner reported, that the committee had, according to order, had under consideration a bill from the House of Representatives entitled "an act for the appropriation of money," and had gone through the same, and made sundry amendments, which he handed in at the Clerk's table, where they were severally read.

The following amendment was read, to wit: "To Samuel South, treasurer, three hundred dollars, for clerk hire." And the question being taken upon concurring therein, it was resolved in the affirmative—Yeas 21, nays 9.

The yeas and nays being required thereon by Messrs. Wickliff and Owens, were as follows, to wit:

Those who voted in the affirmative, are Messrs. C. Allan, Barrett, Beauchamp, Carneal, Denny, Duncan, Ewing, Hickman, Howard, M'Affee, Marshall, Mayo, Miller, Owens, Roper, Rudd, Smith, Towles, T. Ward, White and Williams.

Those who voted in the negative, are Messrs. C. H. Allen, Blackburn, Bowman, Cowan, Davidson, Faulkner, Forsythe, Lyon and Wickliff.

Mr. Owens moved the following amendment, to wit:

Be it further enacted, That from and after the first Monday in August next, the members of the General Assembly shall be allowed three dollars per day, in lieu of the sum per day now allowed by law, and three dollars for every twenty-five miles in going to and returning from the seat of government.

And the question being taken thereon, it was resolved in the affirmative—Yeas 21, nays 10.

The yeas and nays being required thereon by Messrs. Bowman and Owens, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barrett, Beauchamp, Blackburn, Bowman, Davidson, Denny, Duncan, Ewing, Forsythe, Howard, M'Affee, Marshall, Mayo, Miller, Roper, Rudd, J. Ward, T. Ward, Wickliff and Williams.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Carneal, Cowan, Faulkner, Hickman, Lyon, Owens, Smith and Towles.

The other amendments were then concurred in, and the bill read a third time.

Resolved, That the said bill do pass, and that Mr. Williams inform the House of Representatives thereof.

The Senate received several messages from the House of Representatives, announcing the passage of the following bills from the Senate, to wit: An act for the benefit of certain seminaries; an act supplemental to the act fixing the ratio and apportioning the representation for the ensuing four years; an act supplemental to an act establishing the county of Spencer, and an act for the benefit of the Sergeant of the Court of Appeals. Also, that they concurred in the amendments made by the Senate, upon receding from their disagreement to the amendments made by the House of Representatives to a bill entitled "an act concerning the Directors of the Bank of Kentucky;" and that they adhered to their disagreement to an amendment made by the Senate to a bill entitled "an act to apply the net profits of the Bank of the Commonwealth for the year 1824, in aid of the revenue."

The amendment was again taken up and read. It was then moved and seconded that the Senate recede from their amendment; and the question being taken thereon, it was resolved in the affirmative—Yeas 20, nays 12.

The yeas and nays being required thereon by Messrs. Blackburn and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barrett, Blackburn, Bowman, Cowan, Denny, Duncan, Faulkner, Flournoy, Howard, Lyon, M'Affee, Roper, Rudd, Smith, Towles, J. Ward, Wickliff and Williams.

Those who voted in the negative, are, Messrs. C. Allan, Barbee, Beauchamp, Carneal, Davidson, Ewing, Forsythe, Hickman, Marshall, Miller, Owens and T. Ward.

Ordered, That Mr. Williams inform the House of Representatives thereof.

Mr. Blackburn read and laid upon the table the following resolution, to wit:

Resolved by the General Assembly of Kentucky, That two thousand copies of the general Laws passed at the present session of the Legislature, and one hundred and fifty copies of the Journals of the present session, be printed by the Public Printers, and bound by William Wood and A. C. Keenon, and be delivered to the Secretary of State for distribution.

The rule being dispensed with, it was taken up and concurred in.

Mr. T. Ward read and laid on the table the following resolution, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky, That the Keeper of the State-House proceed forthwith to have the balcony painted; to have gutters placed around the roof, for conducting off the water; to have the foundation pointed; to have venetian blinds made for the false windows, and to have the frames of said windows painted; to be paid for out of the treasury.

The rule being dispensed with, it was taken up and concurred in.

Ordered, That Mr. Blackburn inform the House of Representatives thereof.

On the motion of Mr. Ewing,

Resolved, That the Sergeant-at-arms be directed to distribute the wood remaining on hand at the close of the present session, among the widows and poor citizens of North and South Frankfort, as heretofore.

On motion of Mr. Owens;

Resolved by the General Assembly of the Commonwealth of Kentucky, That the joint resolution fixing on the 7th inst. for a final adjournment of the General Assembly, be rescinded.

Ordered, That Mr. Owens inform the House of Representatives thereof.

The Senate received, by the Secretary of State, a written message from the Governor; and the rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

The recommendations having been made to me agreeably to the provisions of the constitution, I nominate for your advice and consent, Wilson L. Davis, sheriff; David Cox, coroner; Stephen Bard, Jephthah Berkley, John Huston, John Lilley, Gideon Walker, Thomas Newman, Jonathan Cox, Mastin B. Shelburn and Stilwell Heady, justices of the peace in and for the county of Spencer.

I also nominate Alexander H. Rennick, division quartermaster of the 3d division of Kentucky militia, in the place of Willis A. Lee, resigned.

JOHN ADAIR.

January 7th, 1824.

Resolved, That the Senate advise and consent to said appointments, and that Messrs. Wickliff and White inform the Governor thereof.

Messrs. Barbee and Williams, from the joint committee of enrolments, reported that they had examined enrolled bills and resolutions of the following titles, to wit: An act to change the terms of the Woodford circuit court; an act to increase the allowance to indigent pupils in the Asylum for the education of the Deaf and Dumb, and for other purposes; an act for the benefit of Robert Kinkaid; an act to alter the time of holding certain circuit and county courts; an act to establish the town of Mayfield, in Graves county, and to provide for the sale of the lots; an act to repeal all laws allowing a replevin of two years on contracts entered into after the first day of June next; an act to lay off the State into electoral districts; an act declaring Dick's river navigable; an act to legalize the proceedings of the Woodford county court at their January term 1824; an act to change the venue in the case of John Williams; an act for the benefit of the heirs of David Davidson, deceased; an act for the benefit of sheriffs; an act concerning the Bank of Kentucky and the Bank of the Commonwealth; an act for the benefit of the executors of John B. Wooldridge; an act to amend the act entitled an act to abolish imprisonment for debt and subject equitable interests to execution; an act for the benefit of Joshua Barbee and the devisees of John Barbee, deceased; an act for the relief of certain aliens; an act to amend the several acts concerning the town of Cynthiana; an act to carry into operation the Lunatic Asylum; an act to alter the time of holding certain circuit courts; an act for the benefit of Nancy Strode; an act for the benefit of the Lexington Presbyterian Congregation; an act to incorporate the Republican Circulating Library Company; an act for the benefit of John Anderson; an act authorising certain county courts to hold additional terms; an act for the benefit of certain seminaries; an act concerning the Directors of the Bank of Kentucky; an act concerning the town of Christiansburg, and for other purposes; an act to authorise the clerk of Hickman county court to transcribe certain records; an act supplemental to the act fixing the ratio and apportioning the representation for the ensuing four years; an act to apply the net profits of the Bank of the Commonwealth for the year 1824, in aid of the public revenue; an act for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes; an act for the benefit of Nancy Cravens; an act to add a part of the county of Floyd to Morgan county, and for other purposes; an act to revive and amend the champerty and maintenance law, and more effectually to secure the *bona fide* occupants of land within this commonwealth; resolutions approbatory of the course of the President of the United States in relation to the struggles of

the Greeks and South Americans for freedom, and in relation to the administration of the general government; an act for the divorce of Aaron Earnest, Elizabeth Noel and William Thompson; an act to establish the county of Spencer; a remonstrance to the Congress of the United States, on the subject of the decision of the Supreme Court of the United States on the occupying claimant laws of Kentucky; a resolution appointing commissioners to examine and report the state of the Penitentiary; an act to improve the navigation of Big Sandy river; an act to establish election precincts in certain counties, and an act for the benefit of the heirs of Richard Cocke and Mary Cocke, deceased; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills and resolutions.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee reported that they had performed that duty.

The Senate received a message from the House of Representatives, announcing that they had concurred in the resolution rescinding the order for adjournment, with an amendment; and that they had received official information that the Governor did, on the 5th inst. approve and sign enrolled bills, which originated in that House, of the following titles, viz. An act to authorise the surveyors of Jefferson and Harlan counties to transcribe certain books in their offices; an act to regulate the toll of certain turnpike gates in this commonwealth; an act for the benefit of the heirs of Benjamin Collins, deceased; an act to authorise the Register to transcribe certain entries; an act to amend an act for surveying the military claims west of Tennessee river; an act to amend the act to regulate endorsements on executions; an act for the relief of the sheriffs of Lincoln and Jefferson counties; also, enrolled resolutions in relation to the sales of articles manufactured in the Penitentiary: And that the Governor did, on this day, approve and sign bills of the following titles, viz. An act for the benefit of Robert Davis; an act to amend an act to open a road from Mount Sterling to the Virginia line, by way of Prestonsburg, and for other purposes; an act for the benefit of Alexander Guffey; an act to prevent the masters of vessels and others from employing or removing persons of colour from this State; an act providing for opening a road from Franklin to Owenborough on the Ohio; an act for the benefit of Daniel Trabue and others; an act to appoint commissioners for the protection of the navigation of Big Barren river; an act for the benefit of George Corn and Samuel Foster; an act to extend the terms of the Green circuit court; an act to amend an act entitled an act for enlarging the Penitentiary, and

to provide for the more speedy sale of the articles manufactured in that institution, approved December 10th, 1822; an act prescribing the duties of the Reporter of the decisions of the Court of Appeals; an act for the divorce of Nancy Eastland, Sally Chisney and Peyton Chapman; an act for the benefit of the widow and heirs of James Dunbar, deceased; an act altering the mode of distributing the Acts, Journals and Reports; an act to amend an act entitled an act for the benefit of religious societies in this commonwealth, approved February 1st, 1814; an act to establish election precincts in certain counties; an act for the benefit of the heirs of Richard Cocke and Mary Cocke, deceased; an act to improve the navigation of Big Sandy river: Also, a remonstrance to the Congress of the United States, on the subject of the decision of the Supreme Court of the United States on the occupying claimant laws of Kentucky; a resolution appointing commissioners to examine and report the state of the Penitentiary, and a resolution requiring the Keeper of the Penitentiary to furnish the convicts with Testaments.

The amendment to the resolution was taken up and concurred in.

Ordered, That Mr. Owens inform the House of Representatives thereof.

The Senate received information, by the Secretary of State, that the Governor did, on the 5th, inst. approve and sign an enrolled bill, which originated in the Senate, entitled "an act to allow additional justices of the peace to the counties of Trigg and Garrard;" and that he did, on this day, approve and sign enrolled bills of the following titles, to wit: An act allowing an additional term to the county court of Hardin; an act to establish a Botanical Garden; an act for the benefit of Joseph Cummins and others; an act to authorise the executors of Brumfield Long to convey certain lands; an act for the benefit of Thomas Rutledge; an act for the benefit of Robert C. Slaughter; an act to amend the act incorporating the Centre College of Kentucky at Danville; an act for the relief of certain aliens; an act for the benefit of Nancy Strode; an act for the benefit of Joshua Barbee and the devisees of John Barbee, deceased; an act to carry into operation the Lunatic Asylum; an act for the benefit of the Lexington Presbyterian Congregation; an act to alter the time of holding certain circuit courts; an act for the benefit of the executors of John B. Wooldrige; an act to amend an act entitled an act to abolish imprisonment for debt and subject equitable interests to execution; an act to amend the several acts concerning the town of Cynthiana, and an act to incorporate the Republican Circulating Library Company.

Ordered, That Mr. Williams inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing that they had adopted resolutions from the Senate, for printing and binding the Acts and Journals; and a resolution directing certain repairs to be made to the Capitol.

The Speaker laid before the Senate the following communication, to wit:

BANK OF KENTUCKY, Jan. 7th, 1824.

Sir:

The stockholders, on their part, did, on yesterday, elect Robert Alexander, John Brown, Preston W. Brown, Benjamin Gratz, Jephthah D. Garrard and Charles Julian, as directors of this institution, to serve the present year.

Very respectfully,

J. HARVIE, *Pres't.*

The Hon. WILLIAM T. BARRY,

Speaker of the Senate.

And then the Senate adjourned.

THURSDAY, JANUARY 8, 1824.

The Senate assembled.

The Senate received a message from the House of Representatives, announcing that they had concurred in the amendments made by the Senate to a bill entitled "an act for the appropriation of money," except three.

The said amendments were again taken up and read.

Resolved, That the Senate insist on their amendments, and that Mr. Ewing inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing the passage of a bill entitled "an act supplemental to an act apportioning the representation of this commonwealth;" and that they adhered to their disagreement to the amendment raising the wages of the members, and insist on their disagreement to the other amendments to the bill entitled "an act for the appropriation of money."

The former bill was read the first time; and the rule being dispensed with, the said bill was read a second and third times.

Resolved, That the said bill do pass, and that Mr. Denny inform the House of Representatives thereof.

The bill entitled "an act for the appropriation of money," and the amendments proposed thereto by the Senate, were again taken up and read.

It was moved and seconded that the Senate adhere to their amendment raising the wages of the members of the Legislature; and the question being taken thereon, it was resolved in the affirmative—Yeas 23, nays 8.

The yeas and nays being required thereon by Messrs. Flournoy and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barbee, Barrett, Beauchamp, Blackburn, Bowman, Carneal, Davidson, Denny, Duncan, Ewing, Forsythe, Howard, M'Afee, Marshall, Mayo, Miller, Owens, Roper, J. Ward, T. Ward, White and Williams.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Cowan, Faulkner, Flournoy, Hickman, Lyon and Smith.

Resolved, That the senate insist on the other amendments, and that they ask a conference on the disagreement concerning said amendments.

Messrs. Howard, Roper, Marshall, Ewing and Denny were appointed a committee on the part of the Senate.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

The committee retired, and after some time returned, and Mr. Howard made the following report, to wit:

The committee of conference on the bill for the appropriation of money, have agreed that the Senate recede from their amendment to the bill, giving office-rent to the clerk of the general court, and that part appropriating \$300 to the treasurer for clerk-hire; and the House of Representatives to recede from their disagreement to that part of the bill raising the wages of the members of the Legislature.

The Senate received a message from the House of Representatives, announcing that they had disagreed to the report of the committee of conference on the disagreement of the two branches on three of the amendments made to the bill for the appropriation of money, and that they adhered to their disagreement to the amendments made by the Senate.

The amendments were again taken up and read.

Mr. Marshall moved that the Senate recede from said amendments; and the question being taken thereon, it was resolved in the negative—Yeas 11, nays 17.

The yeas and nays being required thereon by Messrs. Beauchamp and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Barrett, Blackburn, Carneal, Faulkner, Flournoy, Hickman, Lyon, M'Afee, Smith and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Barbee, Beauchamp, Denny, Duncan, Ewing, Forsythe, Howard, Marshall, Mayo, Miller, Owens, Roper, J. Ward, T. Ward and White.

Mr. Marshall then moved that the Senate recede from their amendment raising the wages of the members; and the question being taken thereon, it was resolved in the affirmative—Yeas 13, nays 10.

The yeas and nays being required thereon by Messrs. Beauchamp and Miller, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. Allan, Barbee, Barrett, Blackburn, Bowman, Carneal, Faulkner, Flournoy, Hickman, Howard, Lyon, M'Afee, Marshall, Smith, J. Ward, T. Ward, White and Williams.

Those who voted in the negative, are, Messrs. C. H. Allen, Ballinger, Beauchamp, Denny, Ewing, Forsythe, Mayo, Miller, Owens and Roper.

Mr. C. H. Allen then moved that the Senate adhere to the other amendments; and the question being taken thereon, it was resolved in the negative—Yeas 12, nays 16.

The yeas and nays being required thereon by Messrs. C. H. Allen and Miller, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barbee, Beauchamp, Ewing, Forsythe, Howard, M'Afee, Marshall, Mayo, Owens, J. Ward and T. Ward.

Those who voted in the negative, are, Messrs. C. Allan, C. H. Allen, Barrett, Blackburn, Bowman, Carneal, Denny, Faulkner, Flournoy, Hickman, Lyon, Miller, Smith, White and Williams.

Resolved, That the Senate recede from said amendments.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

Mr. Denny then moved that a message be sent to the House of Representatives, announcing that the Senate have finished their legislative business, and are now ready to adjourn without day; and the question being taken thereon, it was resolved in the affirmative—Yeas 14, nays 12.

The yeas and nays being required thereon by Messrs. Beauchamp and C. Allan, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. C. H. Allen, Ballinger, Barbee, Beauchamp, Denny, Duncan, Ewing, Forsythe, Miller, Owens, Roper, J. Ward, T. Ward and White.

Those who voted in the negative, are, Messrs. C. Allan, Barrett, Blackburn, Carneal, Cowan, Davidson, Faulkner, Flournoy, Hickman, Lyon, Smith and Williams.

Ordered, That Mr. Denny carry said message.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined enrolled bills and resolutions of the following titles, to wit: An act supplemental to an act entitled an act supplemental to an act apportioning the representation of this commonwealth; an act for the appropriation of money; a resolution for printing the Acts and Journals, and a resolution for doing certain repairs to the Capitol; and had found the same truly enrolled.

The Senate received a message from the House of Representatives, announcing that their Speaker had signed said bills and resolutions.

Whereupon the Speaker of the Senate signed them, and they were delivered to the joint committee of enrolments, to be laid before the Governor; and after some time, Mr. Barbee reported that they had performed that duty.

The Senate received information, by the Secretary of State, that the Governor did, on yesterday, approve and sign enrolled bills, which originated in the Senate, of the following titles, to wit: An act declaring Dick's river navigable; an act for the benefit of Robert Kinkaid; an act to lay off the State into electoral districts; an act to change the terms of the Woodford circuit court; an act to establish the town of Mayfield, in Graves county, and to provide for the sale of the lots; an act to legalize the proceedings of the Woodford county court at their January term 1824; an act concerning the Bank of Kentucky and the Bank of the Commonwealth; an act for the benefit of sheriffs; an act to repeal all laws allowing a replevin of two years on contracts entered into after the first of June next; an act to alter the time of holding certain circuit and county courts; an act to increase the allowance to indigent pupils in the Asylum for the education of the Deaf and Dumb, and for other purposes; an act to change the venue in the case of John Williams; an act for the benefit of the heirs of David Davidson; an act for the benefit of the stockholders of the Farmers and Mechanics' Bank of Logan, and for other purposes; an act supplemental to an act establishing the county of Spencer; an act to add a part of the county of Floyd to the county of Morgan, and for other purposes; an act for the benefit of Nancy Cravens; an act for the benefit of certain seminaries; an act concerning the Directors of the Bank of Kentucky; an act for the benefit of John Anderson; an act to authorise the clerk of Hickman county court to transcribe certain records; an act to regulate the town of Christiansburg, and for other purposes; an act authorising certain county courts to hold additional terms, and an act supplemental to the act fixing the ratio and apportioning the representation for the ensuing four years: And that he did, on this day, approve and sign an enrolled bill, which originated in the Senate, entitled "an act for the benefit of the Sergeant of the Court of Appeals;" also, a resolution directing certain repairs to be made to the Capitol, and a resolution for printing and binding the Acts and Journals.

Ordered, That Mr. Ewing inform the House of Representatives thereof.

The Senate received a message from the House of Representatives, announcing that they had finished their legislative business

and were ready to adjourn without day; and that they had appointed a committee on their part, to co-operate with one from the Senate, to wait on the Governor, and know of him whether he has any further communications to make.

Ordered, That Mr. Denny inform the House of Representatives that the Senate have finished their legislative business and are now ready to adjourn without day.

Messrs. Denny and Blackburn were appointed a committee on the part of the Senate, to wait on the Governor.

The committee retired, and after some time returned, and Mr. Denny reported, that they had performed the duty assigned them, and were informed by the Governor that he had no further communications to make to the Legislature.

The Lieutenant-Governor delivered a valedictory address, and adjourned the Senate without day.

The Lieutenant-Governor having retired, Mr. Ewing was called to the chair, and Mr. Marshall offered the following resolutions, to wit:

Resolved by the Senate of Kentucky, That the able, impartial and dignified manner in which WILLIAM T. BARRY, Lieutenant-Governor, has discharged the office of Speaker of the Senate, during the term of his service, demands the warmest applause, and is entitled to the grateful thanks of that body.

And resolved, That the philanthropy, liberality and generosity of feeling expressed and manifested in the public acts of that gentleman, endear him to the Senate; and although, as individuals, many of that body have differed with him in sentiment and views of policy, yet the urbanity of disposition and amenity of manners with which he has urged that difference, have plucked the sting from controversy and cast oblivion upon momentary excitement.

In contemplating the termination of the public and official career of *William T. Barry*, as Lieutenant-Governor and Speaker of the Senate, we cannot withhold an expression of regret, that the country should lose the benefit of his talents and exertions in aid of her councils, and the Senate should be deprived of his ability and mildness of direction and control.

With feelings of friendship and unfeigned kindness, we tender, as a Senate, to *William T. Barry*, our high regard and heart-felt wishes for his success and happiness.